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Introduction to the Legal Foundation of Federal Land Management

University of Colorado Boulder. Natural Resources Law Center

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Introduction to the Legal Foundation of Federal Land Management

December 1-3, 2004
Natural Resources Law Center
University of Colorado School of Law

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I. Introduction

Ia. Purpose

This course is organized around key federal land management decisions and processes that participants have to engage in, in their everyday work. This course encourages discussion of various laws, policy, and regulations, but in a context that is applied to the real-world. Three in-depth case studies will be discussed as a way of introducing the implications of federal laws, regulations and agency guidance on agency decision making and the opportunity to influence agency outcomes. All participants must read the case studies in depth prior to the training.

Participants should come away from this training with the following:

- A general understanding of the basic land management statutes guiding the U.S. Forest Service and the Bureau of Land Management (BLM).
- Familiarity with key policies and regulations related to managing off-road vehicles, oil and gas development and logging/vegetation treatment on public lands.
- A general understanding of the National Environmental Policy Act and its relationship to decisions under the Federal Land Policy and Management Act and the National Forest Management Act.
- A practical understanding of how other laws, such as the Endangered Species Act, the Clean Water Act, National Historic Preservation Act, and others can affect public land management decisions.
- A resource guide on how to find relevant legal information on the internet.

Please note: The schedule is very tight, we will send the case study materials out in advance and *participants will need to have read them* by the time they arrive for the training. Participants will be encouraged to eat lunch in the cafeteria and not leave NCAR to go into Boulder to eat lunch.

Ib. Instructors

Charles Wilkinson

Charles Wilkinson graduated from Stanford Law School in 1966, practiced with private firms in Phoenix and San Francisco and with the Native American Rights Fund, and is now the Moses Lasky Professor of Law at the University of Colorado. He has received numerous awards including; Distinguished University Professor, 2002 Hazel Barnes Prize, the Earle A. Chiles Award and the National Wildlife Federation presented him with its National Conservation Award. He has served on the boards of The Wilderness Society, Northern Lights Institute, and the Western Environmental Law Center, and is currently Board Chair of the Grand Canyon Trust.

Over the years, Professor Wilkinson has taken on many special assignments for the Departments of Interior, Agriculture, and Justice. He served as special counsel to the Interior Department for the drafting of the Presidential Proclamation, establishing the Grand Staircase-Escalante National Monument in Utah. He was appointed as a member of the Committee of Scientists, which resulted in the 2000 Forest Service planning regulations. Professor Wilkinson acted as facilitator in negotiations between the National Park Service and the Timbisha Shoshone Tribe concerning a tribal land base in Death Valley National Park. He is currently serving as mediator in two sets of negotiations, between the City of Seattle and the Muckleshoot Indian Tribe and the Oglala Sioux Tribe and the National Park Service.

Professor Wilkinson has written broadly on law, history, and society in the American West. His twelve books include the standard law texts on federal public land law and Indian law.

Sarah Krakoff

Sarah Krakoff is the Acting Director of the Natural Resources Law Center and an Associate Professor at the Law School. Professor Krakoff came to CU in 1996 as Director of the Indian Law Clinic and joined the tenure track faculty in 1999. Before coming to the University of Colorado, Professor Krakoff worked on the Navajo Nation for DNA-People's Legal Services as Director of DNA's Youth Law Project, where she litigated cases about educational equality for Native American children. Prior to that, she clerked on the 9th Circuit Court of Appeals for Judge Warren Ferguson. Professor Krakoff's law degree is from Boalt Hall, University of California at Berkeley and her undergraduate degree is from Yale.

Professor Krakoff has published law review articles and book chapters on federal Indian law, environmental justice, outdoor recreation and environmental ethics, and public lands.

Kathryn Mutz

Kathryn Mutz is a Staff Attorney with the Natural Resources Law Center. She has a background in both law and natural resources management. For the twelve years prior to entering law school, she worked throughout the West for government and private industry on a variety of public policy and scientific issues, including work on wetlands, endangered species, and reclamation of disturbed lands. Kathryn holds a Bachelor's degree in Geography from the University of Chicago, a Master's degree in Biology/Ecology from Utah State University, and a J.D. from the University of Colorado, concentrating in natural resources and environmental law. Most

recently, her legal research has focused on environmental justice, forestry and mineral development

Ann Morgan

Ann Morgan has been an Adjoint Professor at the University of Colorado School of Law since 2002. She received her BS in natural resources management from the University of California at Berkeley and her MBA at Golden Gate University. Previous to her position at the law school, she served as the Colorado State Director for the Bureau of Land Management, U.S. Department of the Interior. She has also served as the BLM state director in Nevada. Prior to joining the federal government Ann worked for the Washington State Department of Natural Resources as Division Manager for Aquatic Lands and as an engineering and construction project manager for an investor-owned utility company.

Maggie Fox

Maggie Fox currently serves as Deputy Executive Director of the Sierra Club, where she has worked for over 20 years in a number of positions including Director of the Southwest Regional Office and the Western Public Lands and Resources Specialist. Maggie worked extensively on issues as varied as western public lands and water resources, growth and sprawl, global warming and energy policy. She has worked on and led numerous national political and environmental campaigns in the last 20 years.

Prior to her Sierra Club career, Maggie lived and worked on the Navajo and Hopi Reservations as a tribal school teacher and community organizer. For over a decade, Maggie worked for the National Outward Bound Schools as an instructor, course director, program director and consultant. During her tenure as a wilderness educator, Maggie traveled and led high altitude mountaineering expeditions throughout the United States, Canada, South America, and Asia.

She earned her B.A. from the University of North Carolina, a Masters in Education from the University of Colorado, a teaching certificate and graduate work in teaching English as a second language from Northern Arizona University, and received a law degree with an emphasis in Indian and Environmental Law in 1982 from Lewis and Clark, Northwestern School of Law.

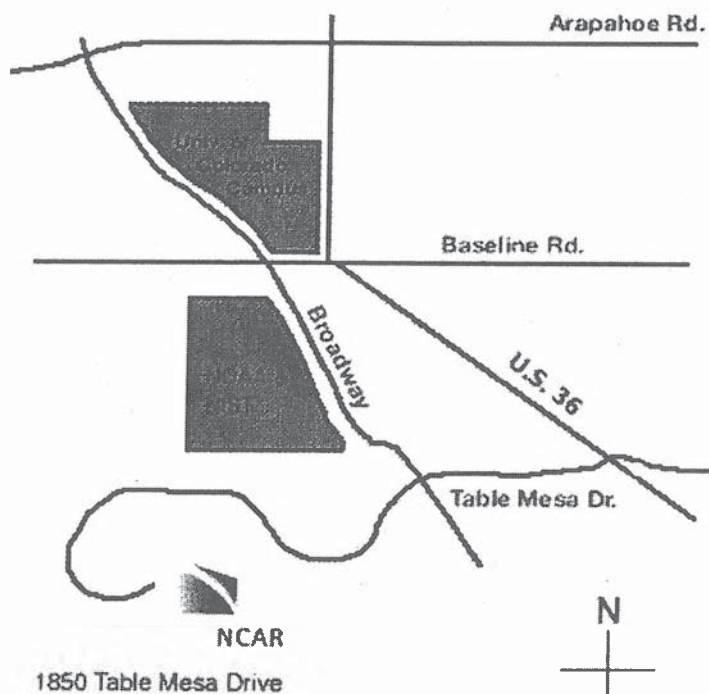
Ic. Location

The training will be held at the National Center for Atmospheric Research (NCAR) in Boulder in the Damon Room.

NCAR is a working research laboratory located in the hills west of Boulder on a site maintained as a nature preserve. In addition to beautiful walking trails, the NCAR facility offers guided and self-guided tours, science exhibits, and the NCAR science store.

NCAR is located at 1850 Table Mesa Drive. From Denver, take U.S. Highway 36 to Boulder and exit at Table Mesa Drive; go west for three miles. From Highway 93, turn west on Table Mesa Drive. Free parking is available.

NCAR is not served by public transit.



II. Agenda

Wednesday December 1st

- Before 5pm Hike/explore NCAR trails
- 5:00-5:30 Mixer with wine and beer
- 5:30-6:30 Dinner catered by NCAR in the Damon Room
- 6:30-9:00 Evening talk by Professor Charles Wilkinson

Thursday December 2nd

- 8:00-12:00 Professor Sarah Krakoff gives an overview of major laws
- 12:00-1:30 Lunch on your own (cafeteria downstairs); walk the trails
- 1:30-5:00 Travel Management Case Study
1:30-1:45 Go over case study (previously read by participants)
1:45-2:15 Break into small groups and discuss assigned questions
2:15-4:00 Each group takes 20 minutes to report back and discuss
4:00-5:00 Add special use permit for 2-day ATV event in citizen
proposed wilderness; full group discussion and Q&A's

Friday December 3rd

- 8:00-8:30 Agency cultures and how to work with agency officials
- 8:30-12:00 Oil and Gas Development Case Study
8:30-8:45 Go over case study (previously read by participants)
8:45-9:15 Break into small groups & discuss assigned questions
9:15-9:45 Break
9:45-11:30 Each group takes 20 minutes to report back
11:30-12:00 Group discussion and Q&A's
- 12:00-1:00 Lunch on your own (cafeteria downstairs); walk the trails
- 1:00-4:00 Timber/Fuels Reduction Case Study
1:00-1:15 Go over case study (previously read by participants)
1:15-1:45 Break into small groups & discuss assigned questions
1:45-3:30 Each group takes 20 minutes to report back & discuss
3:30-4:00 Group discussion and Q&A's
- 4:00-4:15 Break
- 4:15-4:45 Inspirational wrap up by Maggie Fox
- 4:45-5:15 Wrap up and feedback on course

Summaries of Laws Applicable to the Training Case Studies¹

Archeological Resources Protection Act of 1979

16 USC §470aa-470mm

The Archeological Resources Protection Act (ARPA) was passed in recognition that the archeological resources on public lands and Indian lands are an irreplaceable part of the Nation's heritage and that the resources are increasingly endangered because of their easy accessibility and commercial attractiveness. Up until ARPA there were not adequate Federal laws to provide protection to prevent the loss and destruction of these resources that resulted from uncontrolled excavations, pillage and pot hunting. ARPA is also designed to foster increased cooperation and the exchange of information between governmental authorities, the professional archeological community, and private individuals having collections of archeological resources. Importantly, ARPA also provides for enforcement and for civil and felony criminal penalties.

Archeological resources are broadly defined by the Act to include "any material remains of past human life or activities which are of archeological interest" and includes, but is not limited to, "pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items".

ARPA outlines provisions for issuing permits for excavations and for the removal of archeological resources, for the custody of archeological resources found on public or Indian lands, civil and felony level criminal penalties, maintaining confidentiality concerning the location of archeological resources, and for coordination between agencies and cooperation with private parties.

The Clean Air Act

42 USC §7401 et seq

The Clean Air Act (CAA) is the core law that establishes a comprehensive national program for reducing emissions from factories, cars, and other sources in order to protect human health and the environment. The law directs the federal Environmental Protection Agency (EPA) to establish national clean air standards, but then gives the states and tribes an opportunity to take a lead role in meeting those standards. The law also gives EPA the responsibility for setting emissions limits for many sources of pollution, including cars and trucks (mobile sources) as well as factories and power plants (stationary sources). Both EPA and the states can go to court to enforce air quality laws; in addition, citizens and businesses can challenge many EPA decisions in court.

EPA has identified six criteria pollutants, but they are ubiquitous in our society: sulfur dioxide, particulate matter, nitrogen oxide, carbon monoxide, ozone and lead. EPA sets nationally applicable limits for these pollutants to protect our health. These are called "primary standards."

¹ For full texts of the laws and additional reference materials, please see the links to public land laws provided separately. Many of these summaries are condensed from the Red Lodge Clearinghouse site.

under the Safe Drinking Water Act; this program regulates every injection of fluid into the subsurface. An injection is the emplacement of fluids regardless of whether the injection requires the application of pressure or not, and fluid is defined as any liquid, gas or semisolid which can be made to flow. The program classifies five types of injection and Class II injections include deep disposal of wastewater produced in conjunction with the production of oil and gas. Permits are issued by the state when produced water from coalbed methane production needs to be re-injected as a method of managing or disposing of the produced water. Hydraulic fracturing, another injection technique frequently used in the production of coalbed methane, is not yet regulated under the Safe Drinking Water Act despite a 1997 U.S. 11th Circuit Court of Appeals ruling that it should be.

Endangered Species Act of 1973

16 USC §1531 et seq

The Endangered Species Act, passed in 1973, is one of the most powerful of this nation's environmental laws. The act's purpose is to both conserve and restore species that have been listed by the federal government as either endangered or threatened. The act broadly prohibits anyone from doing anything that would kill, harm, or harass an endangered species. Those prohibitions even apply when listed animal species are on private lands. Federal agencies have a special obligation to ensure that they do nothing that would harm a listed species. That obligation significantly affects activities on federal lands, like grazing, logging, and mining. But it also means that a federal agency has to assess whether its actions could affect a listed species before the agency signs off on a new highway or approves a dam on non-federal land. In addition, the act tells federal agencies to develop plans that show how the listed species could be restored -- or "recovered" -- so that it no longer needs the act's protections.

If an animal or plant species is listed as "endangered," the highest level of protection the act provides, the species is considered to be in danger of extinction throughout a large part of its range. The U.S. Fish and Wildlife Service (USFWS) maintains a list of species that have been listed as endangered. For a species to be listed as "threatened," there must be a significant risk that the species is going to become endangered. Threatened species have a lower risk of extinction than do "endangered" species. As a result, state and federal agencies may have some greater flexibility in how they manage a threatened species than an endangered species. The USFWS maintains a list of species that have been listed as threatened.

The ESA has broad provisions to prevent extinction of plant and animal species. The act prohibits anyone from "taking" a species that has been listed as threatened or endangered. "Take" can be as simple as hunting, shooting or killing a listed animal species. It can also include "harming" a listed species by activities that cause major changes to habitat and leave an animal unable to feed, breed, or find shelter.

When the federal government lists a species as endangered, it is also supposed to identify that species' critical habitat. Critical habitat includes those areas that are important for the species' survival or recovery and which need special management. While a designated critical habitat area is not intended to include all of the potential habitat of the species, it can include habitat that is not currently occupied by the species. Only about 12 percent of listed species have a

designated critical habitat area. According to the USFWS, a critical habitat designation affords little extra protection to most listed species. The agency has, therefore, used its limited staff and funding to list more species rather than spending resources on designating critical habitat. Having a critical habitat designation only gives extra protection to a species if there is a federal agency involved, and then only under certain circumstances. If a federal agency is involved a critical habitat designation may make a difference during the Section 7 consultation process.

Once a species is listed, a recovery plan is developed. The plan outlines how it will ensure the species' survival and restore it to the point where it no longer needs the act's protections and can be "delisted" or removed from the list of threatened or endangered species.

Section 7 of the ESA has been at the center of much of the debate over endangered species protection. Section 7 says that federal agencies must make sure that none of their actions, or any action they authorize or fund, is likely either to jeopardize the existence of a listed species or to damage its critical habitat. To meet this requirement, federal agencies considering taking some action -- from selling timber to re-issuing a grazing permit or permitting a new dam -- must "consult" with the U.S. Fish and Wildlife Service (USFWS), for land-based species, or the National Marine Fisheries Service (NMFS), in the case of sea life or salmon and steelhead. The agencies usually use an informal process to determine whether formal consultation is necessary. In December 2003 several land management agencies, U. S. Fish and Wildlife Service and the National Marine Fisheries Service adopted new regulations that exempt National Fire Plan projects from the informal consultation process.

When informal consultation is still used, the agency that wants to take an action will informally consult with USFWS or NMFS, asking whether there are any proposed or listed threatened or endangered species or critical habitat in the project area. If the answer is "yes", then the consulting agency (also known as the "action agency") must do a biological assessment to assess what impact its action might have on the species or habitat. The assessment usually contains the results of an on-site inspection of the affected area; the views of recognized experts on the species at issue; a review of the literature and other information; an analysis of the effects of the action on the species and habitat; and an analysis of alternate actions considered by the action agency.

If the assessment indicates that there will be no impact, and the USFWS or NMFS agrees, then informal consultation is over and the project can go forward. If the BA indicates that the action is likely to have an effect, then "formal consultation" begins. During the informal consultation, the USFWS or NMFS may suggest project modifications that the action agency could take to avoid the likelihood of adverse impacts.

If a federal agency informs the USFWS or NMFS that a proposed action might affect any proposed or listed threatened or endangered species or critical habitat (typically done as part of a BA), the agencies begin a formal consultation process. In this process, the USFWS or NMFS prepares a biological opinion (BO), is a detailed evaluation of the impacts on the species and critical habitat. The BO thoroughly explains the current status of the species and describes how the proposed action would affect the species. The USFWS (or NMFS) can come to one of three conclusions: jeopardy with reasonable and prudent alternatives; jeopardy without such

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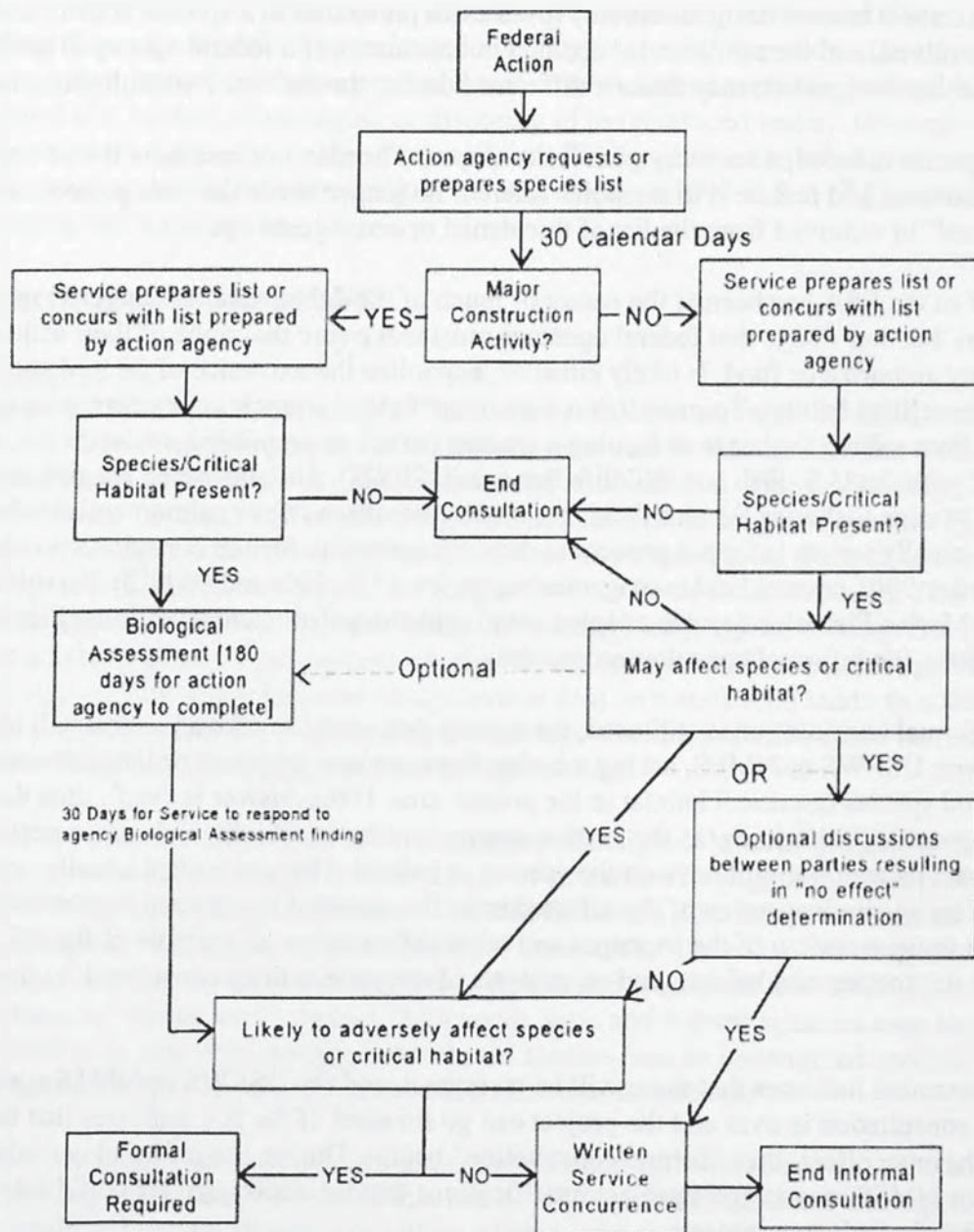
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alternative; or no jeopardy. If the BO concludes the action could harm the species, the USFWS or NMFS typically proposes a set of mitigation measures ("reasonable and prudent" alternatives) that would allow the activity to proceed.



Flowchart courtesy of the U.S. Fish and Wildlife Service

Federal Advisory Committee Act of 1972

5 USC Appendix 2

Congress passed the Federal Advisory Committee Act (FACA) to open up the process through which non-government groups give advice to federal agencies, Congress, and the president. The law and its regulations provide detailed rules for creating and operating official committees that can advise the federal government. These rules include special requirements for balanced membership on committees, conducting open meetings, and keeping detailed records designed to help limit the influence (at least the secret influence) of special interest groups on federal agencies and the president. FACA does not apply to individuals and many groups -- including most collaborative groups -- giving advice. FACA does not apply to individuals giving advice and many groups -- including most collaborative groups -- are exempt from FACA.

Advisory groups must be specially chartered and must follow FACA rules if a federal agency creates, manages or controls the group. In the words of FACA, these are committees "established by" or "utilized by" the federal government. FACA applies to committees, boards, commissions, councils, conferences, panels, task forces, or other similar groups.

Federal agencies can establish or create official advisory committees. For example, the Federal Land Policy and Management Act (FLPMA) requires the Secretary of the Interior to create FACA advisory committees, called Resource Advisory Committees or RACs, to advise her and the Bureau of Land Management on public land management issues.

A group established or managed by an agency -- for example a group at a town hall meeting or NEPA scoping meeting -- does not have to follow FACA rules if the purpose of the meeting is only to exchange information, or if the agency is asking for advice from individuals at the meeting and not from the group as a whole.

Federal Land Policy and Management Act

43 USC §1701 et seq

The Federal Land Policy Management Act of 1976 (FLPMA) is the principal law governing how the Bureau of Land Management (BLM) manages public lands. It requires the agency to manage for multiple use and sustained yield of the resources for both present and future generations.

FLPMA guides BLM management of the public lands with several statements of general policy. First, FLPMA established a policy that for the most part, the public lands would be retained in federal ownership. FLPMA still allows for land exchanges and even for the sale of discreet tracts of land, but the overarching policy is to retain lands in federal ownership.

Second, FLPMA directed the BLM to establish a planning process that resembles that used by other federal agencies. Under FLPMA, BLM must periodically inventory public lands and their resources and develop management plans. Resources must be used in a combination that will best meet the needs of the American people, taking into account the long-term needs of future

generations. In managing its lands, BLM must consider the relative value of resources without necessarily promoting the uses with the greatest economic return or greatest unit output, and must not permanently impair the productivity of the land.

Third, FLPMA requires BLM to take any actions that are necessary to prevent unnecessary or undue degradation of the lands. Fourth, FLPMA requires BLM to manage some lands in a more restrictive way when Congress dedicates those public lands to specific uses in other laws. For example, BLM must manage its wilderness areas and wilderness study areas so that uses do not impair the wilderness characteristics of these lands.

In managing for multiple uses, the BLM manages the public lands for three major categories of use: commercial, recreation, and conservation. Grazing and minerals are the principle commercial uses, although BLM issues permits for everything from bee hives to major utility transmission lines. Public lands also provide a wide range of recreation opportunities including fishing, boating, hunting, hiking, biking, and OHV travel. Conservation of biological, archaeological, historical and cultural resources is the third important use of the public lands.

BLM uses its land use planning process to designate uses of the public lands and plan for development of some resources while protecting others. FLPMA planning documents are called Resource Management Plans (RMPs). The planning process is critical to ensuring a coordinated, consistent approach to managing the land. In developing and revising plans, FLPMA requires BLM to do many things, including these:

- apply principles of multiple use and sustained yield management;
- give priority to the designation and protection of areas of critical environmental concern;
- develop and use an inventory of the public lands, their resources, and other values;
- consider present and potential uses of the public lands;
- weigh long-term benefits to the public against short-term benefits; and
- provide for compliance with state and federal pollution control law.

In particular, FLPMA requires BLM to give state and local governments and the public opportunities to participate in planning. Requirements for planning are outlined in FLPMA, detailed in BLM's planning regulations (43 CFR 1600), and guided by the BLM's manual and handbook.

FLPMA says almost nothing about appeals of agency decisions, but the Department of the Interior (DOI) has detailed rules for appealing a wide array of agency decisions. There are several possible steps to an appeal depending on the issue being appealed. Some appeals, like grazing appeals, start in the agency office that made the decision and are forwarded to Interior's Office of Hearings and Appeals (OH&A) which represents the Secretary of the Interior in most appeals. A few appeals, for example for oil and gas projects, are reviewed by the state director before going to the OH&A. When BLM sends an appeal to the OH&A, it can request that OH&A immediately dismiss the appeal, but if it doesn't, an administrative law judge typically holds a hearing. The decision of this judge can then be appealed to one of several boards of administrative law judges who conduct hearings of appeals of various agency decisions. The best known of these boards is the Interior Board of Land Appeals (IBLA) which hears appeals

related to the use and disposition of public lands and their resources. Certain decisions, for example those related to mining, can be appealed directly to the IBLA.

IBLA decisions are considered "final agency actions" unless the Secretary of the Interior wants to become directly involved. IBLA decisions are not binding on the Secretary, and she has the authority to take over the decision function of cases that have not yet been decided or to review final decisions of the IBLA. The Secretary's final decision is ordinarily binding on her successors and ordinarily cannot be reversed or reopened by the department. But regardless of whether the "final" decision is made by the IBLA or the Secretary, a dissatisfied party can still take the issue to federal court for judicial review.

General Mining Law of 1872

30 USC §22-47

The General Mining Law was signed by President Ulysses S. Grant in 1872. The law allows citizens of the U.S. free and open access to mine for minerals on land managed by the U.S. that have not been withdrawn from entry. While the law has no environmental protections built in, and historic use of the law has led to thousands of contaminated, abandoned mines, other environmental laws such as NEPA and the Clean Water Act do apply to mining operations. In addition, the law is affected by FLPMA and the Surface Resources Act of 1955.

Section 314 of FLPMA established the mining claim recordation and annual maintenance fee program to administer claims under the General Mining Law. The program concerns the location and recording of mining claims and sites, recording of title transfers to mining claims and sites, payment of annual fees and filings of annual assessment work documents necessary to keep the claims valid. This program also covers the adjudication of the filings, fees and transfers and the issuance of decisions voiding out claims and sites that fail to comply with requirements (see 43 CFR 3833).

The General Mining Law provides the successful mining claimant the right to patent (acquire title to the land) mining claims or sites if they meet certain requirements. For mining claims the claimant must demonstrate a physical exposure of a commercially valuable mineral deposit as defined by the "prudent man rule" and the marketability test. The prudent man rule, established in 1894 in Castle v. Womble, is where "...minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine, the requirements of the statute have been met." The marketability test, first defined in a Solicitor's Opinion in 1933, states "...a mineral locator or applicant, to justify his possession must show by reason of accessibility, bona fides in development, proximity to market, existence of present demand, and other factors, the deposit is of such value that it can be mined, removed, and disposed of at a profit."

Further requirements include claimants must have a clear title to the mining claim and have assessment work and/or maintenance fees current and perform at least \$500 worth of improvements for each claim each year. Finally, they must pay the required processing and

purchasing fees for the land applied for. For mill sites, the claimant must show proper use or occupancy for uses to support a mining operation and they must be located on non-mineral land.

Section 302(b) of FLPMA govern all operations of any nature that disturb the surface of the mining claim or require site authorization. Three levels of authorization exist including casual use, "notice level" and plans of operation. Casual use involves minor activity with hand tools, no explosives, and no mechanized earth moving equipment. Notice level activities involve use of explosives and/or earth moving equipment and the total annual un-reclaimed surface disturbance must not exceed five acres per calendar year. A plan of operation is required for all other surface disturbance activities and a full environmental assessment and reclamation bonding are required.

Healthy Forest Restoration Act of 2003

16 USC §6501 et seq

The main title of the Healthy Forests Restoration Act of 2003 (HFRA) establishes rules for hazardous fuels reduction projects on federal lands for the Forest Service and Bureau of Land Management. Less controversial parts of the new law promote use of biomass and small diameter materials; create a forest reserve program and provide technical assistance for private landowners; and address insect infestations and other environmental threats to healthy forests.

Title I of the HFRA calls for:

- fuel reduction projects on up to 20 million acres;
- requires that at least 50% of appropriated funds be spent on projects in the urban-wildlands interface where the risk to life and property from a major fire is greatest;
- allows the Forest Service and BLM to focus on urban watersheds as well as areas that provide important habitat for threatened and endangered species;
- directs the agencies to avoid old-growth forests (though the exceptions provided in the bill are broad and a source of continuing concern to conservationists);
- expedites the NEPA process by limiting the number of alternatives that must be studied as part of environmental reviews and requiring consideration of only one alternative for projects that would take place in the urban-wildland interface;
- establishes an entirely new "predecisional" administrative review process in which all requests for review have to be made to the agency after it completes the EA or EIS but before it issues its final decision approving the project;
- allows only those who have submitted specific written comments that relate to the proposed action during the NEPA scoping process or public comment period to object to the project;
- precludes anyone from litigating over a fuels reduction project unless they participated in this new administrative process;
- encourages courts to expedite their review of lawsuits and requires them to balance the effects of doing the project against the risks of not doing it before putting the project on hold through an injunction or a stay; and
- authorizes Congress to take the next step by providing as much as \$760 million each year to the Forest Service and BLM to carry out these fuels reduction projects.

Title II , the biomass title of HFRA, amends existing laws to:

- improve existing biomass use research;
- accelerate adoption of technologies using biomass and small-diameter materials;
- create community-based enterprises through marketing activities and demonstration projects; and
- establish small-scale business enterprises to make use of biomass and small-diameter materials.

This title also authorizes the Department of Agriculture to make grants to help offset the costs of using biomass.

Title III, watershed assistance, allows the Department of Agriculture to provide technical, financial, and related assistance to states to expand state forest stewardship programs to address watershed issues on non-federal forested land and potentially forested land.

Title IV, the insect and disease title of HFRA, requires the Forest Service to develop and carry out an “applied silvicultural assessment program,” to combat infestations by forest-damaging insects and associated diseases. “Applied silvicultural assessments” are any vegetative or other treatment carried out for information gathering and research purposes, and include timber harvesting, thinning, prescribed burning, pruning, and any combination of those activities. The bill does not permit these assessments in wilderness areas or wilderness study areas or on federal lands where the removal of vegetation is explicitly restricted or prohibited.

The Forest Service must provide public notice and allow for public comment before conducting assessments, but assessments of 1,000 acres or less, and up to 250,000 total acres, are categorically excluded from NEPA analysis. The Forest Service is not required to evaluate whether silvicultural assessment projects will significantly effect the environment before conducting them, but the agency is required to set up a multi-party monitoring effort to evaluate projects if there is significant local interest in doing so.

Title V of HFRA authorizes creation of a reserve program to:

- help restore and enhance forest ecosystems;
- improve biodiversity, and
- promote the recovery of species under the Endangered Species Act.

Private landowners can enroll their property through a 10-year cost-share agreements or easements of up to 99 years. This title also provides for technical assistance to the landowner and a “safe harbor” agreement under the Endangered Species Act.

The final title of HFRA authorizes the Department of Agriculture to carry out a comprehensive assessment program and develop an early warning system for environmental threats (including insects, diseases, invasive species, fire, and weather-related risks and other episodic events) for certain forest lands and private lands.

One of the most controversial parts of HFRA changed the way in which people can object to specific fuels reduction projects. The law requires the Forest Service to create a “predecisional administrative review process.” This process allows people to object to projects earlier than they used to, but it means that objections can only be made after the agency completes the EA or EIS

and before it issues the final decision approving the project. Only those who have submitted specific written comments during the NEPA scoping process or public comment period can object to the project. Someone can challenge a project in federal district court only if that person has already objected to a specific aspect of a project through the Forest Service's predecisional process or the comparable BLM process.

Mineral Leasing Act of 1920 and the Federal Onshore Oil & Gas Leasing Reform Act of 1987

30 USC §181 et seq

Oil, gas (including coalbed methane), and coal are the nation's principal non-renewable energy resources. Leasing of federal resources is regulated primarily under the Mineral Leasing Act of 1920 (MLA) as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA). State and local laws and regulations also regulate oil and gas development on federal, state and privately-owned lands. State laws and regulations can control the location of exploration and production facilities and the environmental impacts of development. The role of local ordinances varies from state to state.

Federally owned oil, gas, coal, coalbed methane, and oil shale are all "leaseable" minerals. The BLM has discretion whether or not to lease these minerals, generating revenue for the states, tribes and federal government.

A "split estate" exists when the owner of the surface of the land does not own the underlying minerals. Under traditional common law, the owner of land controlled "from the heavens to the center of the earth." Congress has changed this so that land ownership can be horizontally divided into surface and subsurface estates. The subsurface or mineral estate can be further divided for ownership of different minerals -- for example, the oil, gas and coal owners can all be different. There are two types of federal/private split estates -- the federal government can own either the surface or the mineral estate. Many private landowners acquired their split estate surface rights through the Stock Raising Homestead Act of 1916. This law granted surface rights to the homesteader and reserved the minerals for the federal government. The federal government has ended up with surface rights without the mineral rights mostly by reacquiring land from private landowners. Some lands were reacquired in order to consolidate checkerboard patterns of ownership (for example, from railroad grants), to eliminate in-holdings of various kinds, or for reforestation or to protect watersheds.

If the private landowner owns only the surface, she does not have the right to develop the oil, gas, coal or other minerals and, in most cases, does not have the right to prevent development of those minerals. The federal government can lease the oil, gas, or coal-bed methane to a private developer. This developer can occupy as much of the surface as is reasonably necessary to develop the minerals. This might include putting in a well, reservoir, powerline, pipeline or other surface facility. Before developing oil and gas, the mineral owner or lessee must either get written consent or a waiver from the landowner (a surface use agreement) or pay an agreed-upon amount for damages. If the landowner does not consent to development or agree to a damage amount, the developer can still operate after posting an approved bond. In contrast, for most coal mine development, the Surface Mining Control and Reclamation Act (SMCRA) requires express

consent of the surface owner before the Office of Surface Mining will approve a permit to develop a surface (strip) mine.

The process for developing oil and gas (including coalbed methane) on federal land with federal minerals is a three or four step process:

1. Most federal oil and gas development is on BLM or Forest Service managed lands and begins with land use plans prepared under FLPMA or the National Forest Management Act. In their planning processes, the agencies discuss the impacts of development and decide which lands should be open for what kind of development.
2. Depending on decisions made in the planning process, BLM offers leases for the mineral estate. A lease gives an operator the right to explore and develop the mineral in accord with stipulations in the lease. Standard lease stipulations include compliance with federal environmental laws such as the Clean Water Act and Endangered Species Act. Special lease stipulations can be added to restrict specific uses of the lease area or the timing of certain activities. Special stipulations might be added to protect wildlife breeding areas. The most stringent stipulations ("no surface occupancy") exclude all exploration and development facilities from the lease area. BLM holds competitive, oral auctions for oil and gas leases at least quarterly. While BLM actually issues the leases, the Forest Service has to authorize them for the lands they manage.
3. If the operator intends to develop a field rather than just a single well, the operator submits a Plan of Development (POD) to BLM. The POD can be used to consolidate infrastructure -- roads, pipelines, waste disposal facilities -- used to develop a whole well field.
4. Finally, the operator files an application for a permit to drill (APD) with BLM. The APD -- for a well or group of wells -- includes a drilling plan and a surface use plan and includes plans for reclamation. BLM or Forest Service may conduct an on-site visit to adjust the development plans or add mitigation measures. Before BLM can approve the APD, the operator must post a performance bond.

State and Local Oil and Gas Laws

State permits are required for oil and gas development on federal, state and privately owned lands. State laws vary, but the permitting processes of the state agency -- often called a conservation commission -- generally govern the location of wells and other facilities and the control of pollutants associated with development. State oil and gas regulatory statutes -- called "conservation" statutes -- were originally developed to protect the rights of mineral owners to the resource and to prevent waste. Most western states have expanded the statutes in recent years to:

- regulate location, drilling, plugging and abandonment of wells;
- protect the rights of surface owners (at least to some extent);
- protect the general public, and
- protect the environment.

In addition, states frequently have authority to issue federal Clean Air Act and Clean Water Act permits through their departments of environmental quality.

Some local governments have also begun to regulate oil and gas development. Cities and counties may have zoning ordinances to designate areas open or closed to development. Some local governments also have ordinances to control conditions of use -- controlling noise, location of roads and other operating facilities. Whether or not a local government has the power to regulate development depends on what kind of regulation it is, what power they are given by state law, and whether state or federal law has "preempted" local regulation. For example, cities and counties cannot "zone out" development on federal lands within their boundaries.

The Wyoming Oil and Gas Commission (WOGCC) has the authority to require drilling, casing, and plugging of wells in order to prevent escape of oil or gas, bonding for plugging dry or abandoned wells, and monitoring of well performance. WOGCC has the authority to regulate, for conservation purposes, the drilling, producing and plugging of wells, the shooting and chemical treatment of wells, well spacing, disposal of salt water and drilling fluids and development, and the contamination or waste of underground water. In addition, WOGCC has a duty to prevent the waste of natural gas and to keep it from polluting or damaging crops, vegetation, livestock, and wildlife. WOGCC rules require that, owners and operators not pollute streams, underground water, or unreasonably damage or occupy the surface of the leased premises or other lands.

Like other states, Wyoming cities and counties have zoning and planning authority that can be used to regulate oil and gas development. The authority of Wyoming counties is more restricted than that of its cities and towns. Cities can regulate construction or use of buildings and land for various reasons, including promoting health and general welfare and encouraging the most appropriate use of land throughout the city or town. Counties can also regulate structures and land use, but no county zoning resolution or plan may prevent any use necessary to the extraction or production of mineral resources.

National Environmental Policy Act of 1969

42 USC §4321 et seq

The National Environmental Policy Act (NEPA) is considered to be one of the most important environmental laws on the books even though it more procedural than substantive in nature. NEPA provides important procedures for public involvement in agency decision making, ensures agencies look at alternatives to their proposed actions, and requires a full evaluation and disclosure of the potential environmental impacts of proposed actions. The White House Council on Environmental Quality (CEQ) has issued NEPA regulations and each federal agency that implements NEPA has promulgated their own set of regulations that can differ procedurally from agency to agency.

Section 102 of NEPA requires that agencies evaluate and disclose the environmental impacts of their proposed actions. The full NEPA process can be lengthy and complex, and requires the agency to seek public comment at many points in the process. But the federal courts have ruled that NEPA is a purely procedural statute. Even after preparation of an environmental analysis,

NEPA does not require any particular decision. It just requires that the agency do the analysis and reporting required by law.

The environmental assessment (EA) process is much less formal than an Environmental Impact Statement (EIS) process. An EA must include brief discussions of the need for the proposed action, alternatives to the proposed action, and environmental impacts of the proposed action and alternatives. NEPA does not require the agency to involve the public in preparing an EA. But in practice, agencies often circulate draft EAs and solicit comments or hold public meetings.

If an agency determines that the proposal will not have significant impacts, it prepares a document called a "finding of no significant impact" (FONSI), which ends the NEPA process. If the proposed project will have a significant impact, it can either prepare an EIS to evaluate and disclose the impacts or change the proposed project to avoid significant impacts ("mitigate the project") and then prepare a FONSI for the revised project.

An EIS is the often-lengthy document that a federal agency uses to explain the environmental impacts of its proposed major projects. The process begins with "scoping," where the agency seeks public comment on what impacts the EIS should cover and what alternatives should be considered. A team of experts (including experts from other federal and state agencies) prepares a Draft EIS (DEIS) that includes a description of the proposed action and why it is necessary, the environment that would be affected, and a comparison of alternatives to the proposal.

When the agency publishes a DEIS, it requests comments from the public. At the end of that comment period, the agency evaluates the comments and revises the EIS in response to issues raised by the comments. The agency then issues a final EIS (FEIS), followed by a "record of decision" (ROD) in which the agency notifies the public of its decision.

After completing an environmental impact statement, an agency issues a "Record of Decision" (ROD):

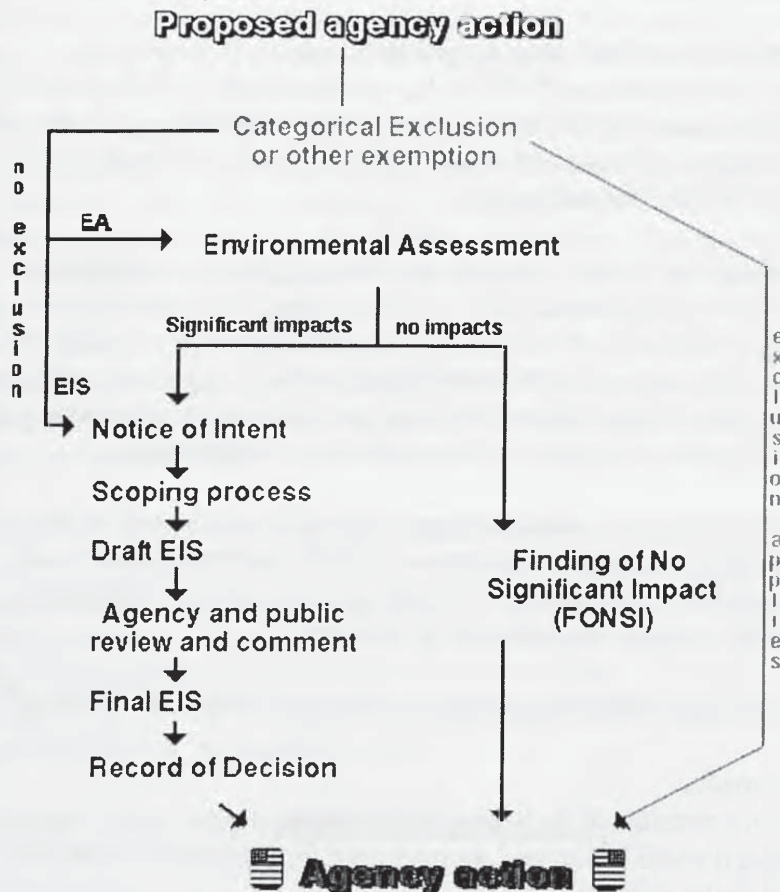
- Stating the decisions it has made;
- Identifying all the alternatives considered in making the decision;
- Identifying which alternative it considers to be "environmentally preferable," even if it has not chosen that particular alternative;
- Discussing the factors it balanced in making its decision; and
- Discussing whether it has adopted all practical mitigation measures -- actions to minimize environmental impacts -- for the alternative that it selected.

In practice, agencies usually will go straight to preparation of a full EIS when they are considering major projects rather than starting with an EA. Agencies also identify whole categories of actions that do not cause significant environmental impacts. For these actions "categorically excluded" from the requirements of NEPA, agencies can skip preparation of either an EIS or an EA.

The Forest Service, the BLM, and several other agencies provide for formal appeals of many of their EIS and EA decisions. In some cases, the agency requires that an objector appeal to the

agency -- pursue an administrative remedy -- before going to court. Federal courts insist on exhaustion of these administrative remedies if statutes or agency rules require them.

The EPA has a special duty, required by section 309 of the Clean Air Act, to review and comment on the possible environmental impact of federal actions. After review, the Administrator of EPA has to make his or her comments public. If he finds the proposal to be environmentally "unsatisfactory," the Administrator has to publish this finding and "refer" the matter to the CEQ for further action.



Flowchart courtesy of the Bureau of Reclamation

National Forest Management Act of 1976

43 USC § 160 et seq

The National Forest Management Act (NFMA), the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) and the Multiple Use-Sustained Yield Act of 1960 (MUSYA) combine to make up current Congressional policy direction on the management of our national forests. The MUSYA authorized the Forest Service to manage national forests for the full range of multiple uses and to utilize a sustained yield approach to managing the products and services of the forests. The RPA required the Forest Service to periodically assess the renewable resources of the forests and to develop national-level plans to manage and develop them.

Finally, the NFMA reiterated the basic charges of NUSYA and amended the RPA to require the Forest Service develop management plans for each national forest. NFMA also set the standards and procedures for timber harvesting and sales.

The RPA requires the Forest Service to develop and update renewable resource assessments every 10 years. These assessments must include an analysis of present and anticipated uses, demand for, and supply of the renewable resources; an inventory of the renewable resources; and an evaluation of opportunities for improving their yield and returns to the federal government. These assessments form the basis for a renewable resource program for the National Forest System which describes the program investments, outputs and benefits, priorities, and personnel requirements. NFMA added the requirement to include program recommendations for multiple-use and sustained-yield management, opportunities for private landowners, protection and improvement of soil, water and air quality, and the development of national goals.

NFMA went beyond the requirements of the RPA to require planning for individual national forests and grasslands through the preparation of Land and Resource Management Plans, also known as LRMPs or forest plans. These plans:

- Establish forest-wide multiple-use goals and objectives;
- Establish forest-wide management requirements called standards and guidelines;
- Establish management direction and designate lands suitable for specific outputs;
- Establish a strategy for monitoring effectiveness; and
- Recommends special designations (i.e. wilderness or wild and scenic rivers) to Congress.

Permits, contracts, plans and other instruments used in managing the national forests, like timber sale contracts, grazing permits, and oil and gas leases, must be consistent with the Land and Resource Management Plans.

The Forest Service has five separate sets of procedures for individuals to use in appealing an agency's decisions. Two are used for appealing decisions related to the agency's planning process. Two others are used for appeals related to the management and use of national forest system lands, including agency projects such as timber sales, as well as private use of the forests such as mining or ski development. The last set of procedures is used only for hazardous fuels reduction projects. For some Forest Service decisions, the appealing party can choose which rules to use, but they cannot appeal under more than one. The agency regulations concerning appeals are in Title 36 of the Code of Federal Regulations.

National Historic Preservation Act of 1966

16 USC 470 et seq

The National Historic Preservation Act aims to preserve the historic and cultural foundations of the Nation in the face of ever-increasing extensions of urban, residential, commercial and industrial developments. The law acknowledges that the major burdens of historic preservation have been borne by the private sector and requires the Federal government to accelerate its historic preservation programs and activities. The act authorizes the Secretary of the Interior to expand and maintain a National Register of Historic Places "composed of districts, sites,

buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.”

Section 106 of the law requires Federal agencies that have direct or indirect jurisdiction or licensing authority over a Federal or federally assisted undertaking to take into account the effect of the undertaking on any district site, building, structure or object that is included in, or eligible for inclusion in, the National Register. Section 110(a) sets inventory, nomination, protection and preservation responsibilities for federally owned cultural properties with the Federal agencies. Complementing this law, Executive Order 11593 (May 13, 1971) directs Federal agencies to inventory cultural properties under their jurisdiction and to nominate qualified properties to the National Register.

Agencies frequently require private parties proposing activities on federal land to do a cultural inventory and report back to the agency prior to issuance of any permission to conduct activities on public lands. Excavation and removal of cultural resources is generally discouraged and projects that might impact cultural resources are often moved, rerouted or otherwise revised to avoid impacting cultural resources.

Stewardship Contracting (2003)

16 USC §2104 note

Stewardship End Result Contracting (stewardship contracting) is a relatively new tool that Congress gave to the U.S. Forest Service and the Bureau of Land Management (BLM) for managing and restoring federal lands. With stewardship contracting, the agency can more completely address the total ecological needs of an area by using timber sale contracts, service contracts, agreements, and new integrated resource contracts -- or any combination thereof.

The law allows the Forest Service and the BLM to enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs. The land management goals of a project may include, among other things:

- (1) road and trail maintenance or obliteration to restore or maintain water quality;
- (2) soil productivity, habitat for wildlife and fisheries, or other resource values;
- (3) setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;
- (4) removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives;
- (5) watershed restoration and maintenance;
- (6) restoration and maintenance of wildlife and fish habitat; and
- (7) control of noxious and exotic weeds and reestablishing native plant species.

The principal new authorities the agencies can use for stewardship projects are:

- Exchange of goods for services: Contractors can be paid in goods -- with the value of any timber or other forest products removed by the contractor used to offset what the agency owes the contractor for services performed.

- Receipt retention: Excess receipts from the sale of timber or other forest products removed can be kept and used by the agency, rather than being deposited in the U.S. Treasury.
- Best-value contracting: Contracts must be awarded on the basis of achieving best value to the government. A variety of criteria, in addition to price, can be used in making the award determination.
- Less than full and open competitive contracting: Stewardship contracts can be awarded with little or no advertising or bidding.
- End-results contracting: The agency determines the end result desired for the work, but the contractor has flexibility to propose the methods to be used, including, in some instances, which individual trees to cut.
- Multi-year contracts: Service contracts can be let for up to 10 years, instead of the current 5 year maximum, to match the duration of timber contracts.

Wild Free-Roaming Horses and Burro Act of 1971

16 USC 1331 §et seq

Neither fish nor fowl (wildlife nor livestock) Congress found that "wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene." There are currently over 37,000 wild horses and burros on the public lands. The law only applies to public lands managed by the Bureau of Land Management and the Forest Service.

The law established the need for protecting wild horses and burros from capture, branding, harassment or death, while at the same time facilitating the removal and disposal of excess wild horses and burros which pose a threat to themselves and their habitat. Animals are removed when their population numbers exceed the carrying capacity of the rangelands or when there are emergency situations such as wild fire or severe drought. The law also authorized the transfer of wild horses and burros, through adoptions, to private individuals and the transfer of title to the animals after one year, provided they have received proper and humane care during that year.

Regulations implementing the law are found in 43 CFR 4700 which provides guidance in inventory, monitoring, incorporating herd management areas into land use plans, interactions between wild horse and burros and livestock, the removal of excess animals, use of motor vehicles and aircraft in managing the herds, and the adoption, maintenance and ownership of wild horses and burros gathered from public lands. Wild horse and burro populations are generally managed with "herd management areas" where the animals were found to be living at the time of the passage of the law.

Controversy plagues the Bureau of Land Management's wild horse and burro program due to occasional reports that animals are being slaughtered for consumption. While the law and regulations allows excess animals for which adoption demand does not exist to be destroyed, annual appropriation riders, as well as public opinion, have prevented federal officials from

doing so. Instead, the excess, un-adopted animals are sent to "sanctuaries" or other long-term holding facilities for the rest of their natural lives.

Wilderness Act of 1964

16 USC §1131 et seq

In 1964, the United States Congress enacted legislation that created a new land classification to preserve wild lands in their natural state. In that legislation establishing the National Wilderness Preservation System, the Congress immediately designated as wilderness a number of areas that the Forest Service previously had established, using its administrative authority. The law also directed the Secretaries of the Interior and Agriculture to survey their lands (but not including Bureau of Land Management Lands) for other areas that could be added to the wilderness system. To protect these lands in a natural state, the Wilderness Act of 1964 prohibits many activities that would impair the areas' wilderness character, but does not limit activities such as hunting and fishing. Both the original and subsequent acts "grandfathered" some activities that pre-dated designation, such as pre-existing irrigation systems and hydroelectric dams.

The Wilderness Act says that wilderness is a place where nature is untrammelled by humans and where people are themselves only visitors. The law also specifies that wilderness lands should be undeveloped lands that retain their primeval character, absent human improvements or human habitation. Generally, wilderness areas are roadless tracts of land that are at least 5,000 acres in size, and often they contain ecological, geological, or other features of scientific, historical, scenic, or educational interest.

The 1964 Wilderness Act did not authorize the Bureau of Land Management (BLM) to survey its lands to identify tracts that qualified for wilderness, even though the BLM manages 270 million acres of land. However, FLPMA gave the BLM the ability to propose areas for wilderness designation. FLPMA directed the BLM to identify roadless tracts, and then to evaluate those roadless areas for their suitability for wilderness designation. FLPMA also directed the agency to report its findings to the President, and directed the President to make recommendations to Congress on which areas should be designated as wilderness. In the meantime, the areas that BLM had identified as suitable for wilderness designation were to be managed to protect their wilderness qualities, even if the President had not recommended them for designation. These areas are known as wilderness study areas. However, lands identified as roadless, but which the BLM did not believe had wilderness characteristics, were not afforded these interim protections.

Some activities and uses are prohibited in wilderness areas. Permanent roads and motorized vehicles and motor boats are generally prohibited within wilderness areas. Generally, it is unlawful to land aircraft within a wilderness area. The Wilderness Act did not restrict camping, fishing, and hunting.

Many conservation organizations contend that in conducting its inventory of roadless areas, and evaluating the roadless tracts' wilderness qualities, BLM missed many areas. As a result, they argue vigorously that many more areas should qualify as wilderness study areas than the BLM identified. The controversy is particularly strong in Utah. During the Clinton administration, Secretary of the Interior Babbitt directed the BLM to re-survey its lands in Utah to determine

whether some lands had inadvertently been dropped from the earlier inventory and analysis. In that re-survey, BLM found a number of roadless tracts with wilderness characteristics and decided to use the agency's planning process to protect these lands from development until Congress decides either to designate them as wilderness or release them for multiple use.

The state of Utah disagreed with that decision and sued to stop the Department of the Interior from protecting lands identified as part of that re-survey. In 2003, Secretary of the Interior Gale Norton decided to settle the lawsuit and made several changes to the way in which BLM deals with potential wilderness lands. She concluded that once the BLM completed its initial wilderness survey, the agency's statutory authority to review areas for their wilderness characteristics expired. Therefore, the Secretary concluded that the agency could not identify WSAs as part of the on-going land management planning process. Several conservation organizations are now challenging the Secretary's decisions in federal court.

The first part of the paper discusses the importance of the study and the objectives of the research. It also mentions the scope of the study and the limitations of the study.

The second part of the paper discusses the methodology used in the study. It mentions the data sources, the data collection methods, and the data analysis methods. It also mentions the ethical considerations of the study.

The third part of the paper discusses the results of the study. It mentions the findings of the study and the conclusions drawn from the study. It also mentions the implications of the study.

The fourth part of the paper discusses the limitations of the study and the suggestions for future research. It mentions the strengths and weaknesses of the study and the areas for further research.

The fifth part of the paper discusses the conclusion of the study. It mentions the overall findings of the study and the final conclusions drawn from the study.

The sixth part of the paper discusses the references of the study. It mentions the sources of the information used in the study.

IVa. Travel Management Case Study



17. Travel Management & Policy



TRAVEL MANAGEMENT PLAN CASE STUDY¹

I. Brief Statement of the Issue

Through the travel management planning process BLM proposes to designate individual routes within the Gold Belt plan area that will be open to motorized and mechanized travel and to develop one new motorized connector trail to create a loop trail.

While almost everyone agrees that it is time to designate routes as well as close others, controversies around the endangered Pinyon Piper, RS2477 and the potential for a new mine in the area are overlaid on the travel management issues.

II. Background

A. Physical, social and economic setting

Canon City is the county seat for Fremont County, which is 45 miles from Colorado Springs and 100 miles from Denver. These Front Range metropolitan areas consider the Canon City area as part of their backyard when it comes to weekend recreation. The big visitor draws include the community of Cripple Creek with its limited-stakes gaming casinos, the Royal Gorge Bridge and railroad, the Arkansas River, and virtually year-round trail use by hikers, bicyclists, and off road vehicle users. The relatively low elevation of 5,343 and mild winters means trail users can recreate most of the year in the Canon City area. The amenable year-round climate may also be part of the draw to new people moving into the area. Fremont County saw an astounding 43% increase in population between 1990 and 2000 (although some of this is most certainly attributable to the increase in residents at the more than one dozen Federal and State correctional facilities).

The land tenure in the area includes a large component of federal land managed by the BLM Royal Gorge Field Office and the Pike-San Isabel National Forest. However, due to the mining and long history of settlement in the area, there is a patchwork quilt of private, state and federal lands. The BLM and Forest Service have combined many functions, services and offices in a concept called "Service First" that blends the lines between the agencies in order to provide better customer service and manage on a landscape basis across agency administrative boundaries. There are a lot of private parcels including patented mining claims scattered throughout the area. The State has school trust lands in the area managed to earn revenue for Colorado schools. Nearby is the Fort Carson army base and the Florissant Fossil Beds National Monument. The Colorado State Parks Division and the BLM jointly manage the Arkansas Headwaters Recreation Area along a 140-mile stretch of river that sees over 100,000 whitewater rafters each year.

¹ The case study is fictitious but based on real life. The people and companies are entirely fictitious and the land use plans, project proposals and environmental analysis are based on real documents that have been adjusted to best serve the case study.

The Gold Belt travel management planning area borders Highway 50 on the south (along with the communities of Canon City and Florence) and the northern boundary goes up to and includes the communities of Victor and Cripple Creek. The east boundary follows Highway 115 and the western boundary follows Highway 9. The planning area includes portions of Fremont, Teller and El Paso Counties and encompasses approximately 564,600 acres, including 138,600 acres of public land administered by the BLM. Included in the planning area are the Gold Belt Tour National Scenic and Historic Byway and the Garden Park Area of Critical Environmental Concern (ACEC). Portions of this ACEC are also designated as a Research Natural Area and a National Natural Landmark for the fossil resources. The planning area also takes in the Shelf Road Recreation Area, the Beaver Creek Wilderness Study Area (WSA), the Beaver Creek ACEC, and the Phantom Canyon ACEC. While not officially recognized as a special designation by the BLM, the Copper Mountain Citizen Proposed Wilderness Area is also in the planning area.

Fremont County has become interested in the RS2477 issue and they have begun to map those roads that they think will qualify for a recordable disclaimer of interest. The County Commissioners know that the County's gold mining history means that many roads will likely qualify even if they are no longer used for anything but recreational driving by four-wheel drive vehicles or all terrain vehicles. Some of the private property owners in the area are concerned that the County may claim RS2477 status for roads that go through their private property.

There is intense conflict over appropriate recreational use of the public's lands. In particular, motorized and non-motorized recreationists clash over access. One side claims that their tax dollars support their right to drive gasoline powered vehicles over the public lands; the other side complains about the forests being overrun with noisy, polluting machines that cause erosion and scare wildlife and hikers. Both sides claim their activities are wholesome family entertainment. The state agencies face the same kind of schizophrenia with the Division of Wildlife wanting to limit motorized uses to protect wildlife and their habitat and the State Parks Division encouraging new trails and OHV use with their OHV licensing revenue.

The BLM Field Office has worked hard to involve all of the interested parties in their efforts but they are worried that the recent Norton v. SUWA Supreme Court case will discourage the conservation communities' participation and might erode their confidence and trust. While the BLM believes they do everything they can to keep OHVs out of the wilderness study areas, budget and resource limits mean they cannot police all of the areas all of the time. Some rogue OHV riders do penetrate into the wilderness study areas despite the carsonite signs the BLM posts around the perimeter.

Recently first term Senator Jo Johnson introduced a statewide Colorado wilderness bill that would put all of Colorado's BLM wilderness study areas into wilderness status along with an additional 560,000 acres of citizen's proposed wilderness areas. These citizen's proposed areas are currently managed under full multiple use and are not being managed to preserve their wilderness characteristics. Travel management plan designations vary

for each of these areas but most are designated as "open" to cross country travel even though their remote and roadless nature means they receive little visitation.

B. Players

The Federal Agency Official

Joe Capricio has been with the BLM since he graduated twenty-five years ago. While Joe received his Bachelors of Science degree in range management, since joining the BLM he has evolved into something of a generalist and manager with everything from range to recreation, hazardous waste to historic preservation, and endangered species to land exchanges under his direction as the Field Office Manager of the Royal Gorge Field Office in Canon City, Colorado. Joe has moved around the BLM system spending time in Oregon, Utah, and Nevada, and he considers himself lucky to have been in the Royal Gorge Field Office as its Manager for the past 15 years. This has given Joe a chance to raise his three children in Canon City and he plans to stay in the community even after he retires in five years.

The BLM Recreation Planner

Terri Chu is the Recreation Planner who has had the lead in developing the plan and taking it through the NEPA process. She has a degree in recreation management and has been with the BLM for three years and was with the National Park Service for twelve years prior to that.

Glow Corporation

The Miller family holds mining claims throughout the Royal Gorge resource area and their history in the area goes back several generations. Under the guise of the Glow Corporation, they have a reputation of working claims that, to others, appear to hold little promise. Mining has been, an avocation and/or a hobby, to nearly every generation of Millers. Currently Spike Miller is both the patriarch of the Miller family and the senior County Commissioner of Fremont County.

Colorado ATV Mtn. Association

Helen Wheels is the President of the CAMA, most often its event planner, and most recently a member of the BLM Resource Advisory Council. She is retired and devotes all of her time to CAMA and motorized recreation. She writes a column for the Blue Ribbon Coalition publication and has enjoyed her chances to go back to Washington DC to lobby on behalf of OHVs.

Other Stakeholders

The following stakeholders have been involved with the travel management process: Front Range Resource Advisory Council, U.S. Forest Service, Colorado Division of Wildlife, Rocky Mountain Recreation Initiative, Colorado Mountain Club, Sierra Club, Audubon Society, Backcountry Horsemen of America, local hikers and bicycle users and clubs, Colorado Motorized Trails Association, Rocky Mountain Trails Association, the Colorado Off-Highway Vehicle Coalition, and local ATV and 4WD clubs.

III. Proposed Agency Action

A. Proposed Travel Management Plan

The preferred alternative in the Gold Belt travel management plan is to go from allowing travel on all roads and trails to only allowing travel on designated individual routes within the Gold Belt planning area and to develop one new motorized connector trail to create a loop trail. The Environmental Assessment will be released for public comment next week. A biological assessment was conducted and it was determined that there would not be an effect on the endangered Pinyon Piper due to the mitigation measures associated with the preferred alternative.

The preferred alternative would designate 82.4 miles of non-motorized trails and 75.4 miles of motorized routes. Under the proposal, mountain bikes would be limited to designated roads and trails and driving vehicles off roads to park, camp, and retrieve game would be limited to a maximum distance of 100 feet.

Areas designated in a land use plan as "open" are areas where off road travel can occur, where there are no compelling resource protection needs, user conflicts, or public safety issues. Currently the only open area is the Torumup Commons area and under the preferred alternative, this would remain open. The Torumup Commons is regularly the site of large gatherings of thousands of ATVs, especially on long holiday weekends when the crowds can get nearly out of hand. Areas designated as "closed" means the areas is closed to vehicle use such as certain designated WSAs. The Beaver Creek WSA is the only closed area in the Gold Belt planning area.

The proposed connector trail would tie in two areas that receive little use currently, but that with the addition of the connector trail and a bridge, would allow an all-day motorized experience that should prove very popular. This connector trail would also serve a second purpose. Glow Corporation has been exploring the Gold Belt area for the past few years looking to take advantage of its heavily mineralized nature. Glow Corporation found a uranium deposit in September of 2002 and has met all of the legal requirements to locate seven unpatented mining claims. Each year since the discovery the company has filed all the papers and taken all the necessary actions to maintain the claims. The company is confident it can prove sufficient value in the deposit to meet the standard for discovery. The company submitted a plan of operations to the BLM in June, 2003 at the same time the BLM was looking at the area for travel management purposes. By building the connector trail and bridge, access could be given to Glow Corporation and two unconnected trails could be tied together to create a long motorized loop trail accessing not only Glow's claims but relatively unutilized backcountry as well.

B. Land Use Planning and Implementation Process

The Royal Gorge Resource Management Plan (RMP) was approved in 1988. The RMP called for a system of designated routes but it did not identify those routes at the time it was published. Travel management plans are being developed now, a full sixteen years after the RMP was signed, by smaller planning areas. The Gold Belt planning area received priority due to the huge increase in the use of roads and trails by all types of users along with the proliferation of new user-created routes.

When the Gold Belt travel management plan is in place, on-the-ground implementation will occur subject to budget priorities and funding availability. Implementation plans include posting signs along designated routes and in closed areas, printing and distributing maps, reclamation of closed or user-created trails, construction of the new motorized trail connector loop, maintenance of designated trails, maintenance of parking areas and trash pick up, and occasional law enforcement and recreational staff presence to ensure compliance and public understanding of the trail system.

C. Environmental Analysis

The extensive scoping effort conducted by the BLM revealed in five key concerns. These concerns include providing appropriate and reasonable access and travel opportunities; achieving compliance with the travel management plan; abating the proliferation of user created routes and cumulative impacts of OHV activities; reducing user conflicts between non-compatible motorized and non-motorized recreation users; and avoiding impacts to the endangered Pinyon Piper.

Four alternatives were developed as a result of the scoping and were analyzed in the draft Environmental Analysis (EA). The alternatives are the proposed action, no action (current use alternative), low use alternative, and high use alternative. These can be generally summarized in the table below. When reading the table, note that each travel use category also allows uses by the categories listed above it. For example, routes that ATVs and motorcycles can go on can also accommodate foot, equestrian and bicycle traffic.

Travel Use Category	Proposed Action	Current Use Alternative	Low Use Alternative	High Use Alternative
Foot, Horse & Bicycle	82	92	123	222
ATV & Motorcycle	75	104	37	116
General Vehicle	60	95	36	85

The affected environment section of the draft EA is included in Appendix A.

IV. Applicable Laws and Guidance

A. Laws

The primary laws applicable to this situation (see attachment for detail) are the Federal Land Policy and Management Act, the National Environmental Policy Act, the Multiple Use Sustained Yield Act, The 1872 General Mining Act, the National Historic Preservation Act, the Clean Air and Clean Water Act, and the Endangered Species Act.

B. Regulations

43 CFR Subpart 1600	Planning
43 CFR Subpart 1601	Resource Management Planning Guidance
43 CFR Subpart 1602	Public Participation
43 CFR Subpart 2932	Special Recreation Permits for Commercial Use, Competitive Events & Organized Groups
43 CFR Part 3800	Mining Claims Under the General Mining Law
43 CFR Part 3810	Lands and Minerals Subject to Location
43 CFR Part 3830	Locating, Recording & Maintaining Mining Claims or Sites, General Provisions
43 CFR Part 3832	Locating Mining Claims or Sites
43 CFR Part 3836	Annual Assessment Work Requirements for Mining Claims
43 CFR Part 3860	Mineral Patent Applications
43 CFR Part 3870	Adverse Claims, Protests and Conflicts
43 CFR Subpart 8340	Off Road Vehicles
43 CFR Subpart 8341	Conditions of Use
43 CFR Subpart 8342	Designation of Areas and Trails

C. Executive Orders

Executive Order 11644 signed on February 8, 1972 signed by President Richard Nixon (as amended by Executive Order 11989 signed on May 24, 1977) requires the federal land management agencies to designate "areas and trails" for off-road vehicle use or restriction and to develop regulations implementing the order.

D. Instruction Memorandum

Instruction Memorandum No. 2004-005 states that road and trail access and OHV management guidance will be incorporated into every Resource Management Plan and at a minimum the RMP will identify areas that are open, limited or closed. For all limited areas, a network of roads and trails should be identified. If it is too complex, too controversial or data is too incomplete to identify specific roads and trails, BLM will, to the extent possible, incorporate a map of a preliminary road and trail network and define management guidance for access and activities.

Instruction Memorandum No. 2004-079 clarifies the distinction between land use plan decisions and implementation decisions so that BLM can clearly communicate the appropriate administrative remedies available to the public. This guidance, along with illustrative examples can be found at <http://www.blm.gov/nhp/eoia/wo/fv04/im2004-079attach1.pdf>

Instruction Memorandum No. 2004-150 provides guidance in determining when to issue a special recreation permit for terms up to ten years.

E. Agency Handbooks and Manuals

Agency handbooks provide guidance to the State and Field Offices while agency manuals are generally more procedural and must be read in conjunction with the relevant regulations.

BLM National Management Strategy for Motorized Off Highway Vehicle Use
<http://www.blm.gov/ohv>

MS-1601 Land Use Planning Manual
<http://www.blm.gov/nhp/efoia/wo/manual/1601.pdf>

H-1601-1 Land Use Planning Handbook
<http://www.blm.gov/nhp/efoia/wo/handbook/h1601-1.pdf>

H-1790-1 National Environmental Policy Act Handbook
<http://www.blm.gov/nhp/efoia/wo/handbook/h1790-1.pdf>

H-2930-1 Recreation Permit Administration Handbook
<http://www.blm.gov/nhp/efoia/wo/handbook/h2930-1.pdf>

MS-2930 Recreation Permit Administration-Policy & Program Direction for Reviewing, Issuing, Administering, Evaluating, Monitoring and Management Manual
<http://www.blm.gov/nhp/efoia/wo/manual/2930.pdf>

MS-6840 Special Status Species Management Manual
<http://www.blm.gov/nhp/efoia/wo/manual/6840.pdf>

MS-3800 Mining Claims Under the General Mining Laws Manual
<http://www.blm.gov/nhp/efoia/wo/manual/3800.pdf>

MS-3830 Location, Recording & Maintenance of Mining Claims, Mill and Tunnel Sites Manual
<http://www.blm.gov/nhp/efoia/wo/manual/3830.pdf>

MS-3870 Adverse Claims, Protests, Contests and Appeals Manual
<http://www.blm.gov/nhp/efoia/wo/manual/3870.html>

H-3870-1 Adverse Claims, Protests, Contests and Appeals Handbook
<http://www.blm.gov/nhp/efoia/wo/handbook/h3870-1.html>

APPENDIX A

NEPA ANALYSIS AFFECTED ENVIRONMENT

Air Quality: Air quality in the planning area is currently good to excellent. Ambient air quality standards are achieved throughout the planning area.

Cultural Resources: The planning area contains cultural resources ranging from very early (Paleo-Indian) aboriginal sites to 50-year-old historic sites. Aboriginal site types include open camps, chipped stone manufacture and processing sites, open and sheltered architectural locales, and isolated artifacts and features. Sites in historic period include mines, vernacular and commercial architectural sites, railroad grades, homesteads, town sites, and ranches.

Environmental Justice: There are no minorities or low-income populations in or near the project area.

Floodplains, Wetlands and Riparian Zones: The planning area encompasses many watersheds tributary to the Arkansas River, most with significant wetland resources. Fourmile, Eightmile, Beaver and Current Creeks are the large streams.

Invasive, Non-native Species: Noxious weeds are more common on the private lands in the project area than they are on the public lands. The higher elevations are susceptible to invasion by yellow toadflax and the lower elevation areas are susceptible to knapweed species invasions if severe soil surface disturbance occurs.

Native American Religious Concerns: Three types of culturally significant phenomena may be present: traditional cultural properties where wild foods or medicines are gathered or where landforms exist associated with aboriginal traditions or beliefs; intangible spiritual attributes associated with the land; and contemporary use areas. The following tribes have an interest in the planning area: the Apache, Pawnee Nation, Cheyenne, Arapaho, Camanche, and Kiowa Tribes of Oklahoma as well as the Crow Creek, Lakota, Northern Arapaho, Northern Cheyenne, Northern Ute, Ogalala Lakota, Cheyenne River Lakota, Rosebud Sioux, Shoshone, Southern Ute, and Ute Mountain Ute Tribes.

Prime and Unique Farmlands: There are no prime or unique farmlands involved on BLM lands in the planning area.

Soils: Travel routes in the Gold Belt planning area cross 85 different soil types with 74 being classified as having a high erosion hazard. The lower elevation areas have shallow soils derived from sedimentary rock parent material while the higher areas have shallow soils with a granitic parent material. Most of these soils are low in nutrients, have a low water holding capacity, and are slow to re-vegetate after disturbance.

Threatened and Endangered Species: The Pinyon Piper, a small neo-tropical, migratory songbird migrates through the area during the spring. The Pinyon Piper was listed as an endangered species last year, but very little is actually known about the

species including the extent of its critical habitat. The Mexican spotted owl and the bald eagle, both threatened species, have critical habitat in the planning area. The black-tailed prairie dog is a candidate species found in the planning area. The mountain plover, Gunnison's prairie dog, peregrine falcon, Brandegee wild buckwheat, dwarf milkweed and golden blazing star are all sensitive species found in the planning area.

Vegetation: Assessments for land health indicate that the majority of the area's vegetation is meeting standards with the exceptions being areas with highly dense pinyon/juniper woodlands. The area includes a variety of vegetation communities ranging in elevation from 5,000 feet to 10,500 feet. Annual precipitation varies from 10-20 inches.

Wastes, Hazardous or Solid: Easy access to public lands and fees charged at legal disposal sites result in some dumping of wastes and hazardous materials on public lands. Dumping is typically household and construction waste.

Water Quality-Hydrology: Eight watersheds are tributary to the Arkansas River and supply water for many downstream users. Among the users is the Park Center Water District taking water directly out of Fourmile Creek on BLM lands. Another major user is the community of Penrose that gets all of its water from Beaver Creek, flowing through BLM most of its length. Waters on the Section 303(c) Clean Water Act list include portions of Cripple Creek and the entire length of Arequa Gulch. These waters are impacted by heavy metals associated with mining. Water quality in Milsap Creek from its headwaters near Victor to its confluence with Fourmile Creek is severely degraded due to sediment.

Wilderness, Areas of Critical Environmental Concern, Wild and Scenic Rivers: The planning area includes portions of the Beaver Creek WSA, the Beaver Creek ACEC, the Phantom Canyon ACEC, and the Garden Park ACEC. The Copper Mountain citizen's proposed wilderness area is in the planning area; this area was originally inventoried by the BLM in the early 1980's but it was determined to have too many roads and minerals conflicts so it did not make it into wilderness study area designation. There are no designated Wildernesses or Wild and Scenic Rivers within the planning area.

Aquatic Wildlife: There are many viable populations of aquatic wildlife species, including important fisheries, within the planning area. Aquatic habitats in the area are primarily impacted by impairment of riparian function due to sediment loading from travel routes, changes to water tables, changes to hydrologic runoff patterns and channel modifications, and to a lesser extent from vehicles driving directly in the waterways.

Terrestrial Wildlife: The primary habitat types in the planning area are grassland, mountain shrub, pinyon/juniper, mixed conifer, ponderosa pine, aspen, spruce fir and alpine. The following species or groupings are commonly found in the planning area: bighorn sheep, elk, mule deer, black bear, mountain lion, raptors, Merriam's turkey, and birds.

Forest Management: In the past 25 years some harvest of both firewood and sawlogs have occurred in the areas, however, due to depressed markets for both products, the BLM has not conducted any harvest operations within the planning area in the past two years and no active sales exist.

Geology and Minerals: The area is an historic mining district and although most of the mining activity today is for industrial material such as sand, gravel, clay and limestone, the large modern day gold mine of the Cripple Creek & Victor Gold Mining Company still operates near Victor. Some increased interest has been shown in the uranium resources scattered throughout the planning area and numerous unpatented mining claims are being maintained.

Land Status/Realty Authorizations/Access: Road rights-of-way include authorizations for four-wheel drive "two-track" roads that provide access to electrical transmission lines, small single-lane driveways for individual land owners, more highly developed double-lane access roads for subdivisions and the federal, state and county road systems. Power line rights-of-way range from small kilovolt service lines for residences to large kilovolt double wood-pole transmission lines, to the very large steel structured transmission facility constructed through the middle of the planning area.

Noise: The sources of noise are highly variable but tend to be dominated by motorized vehicles. This can vary from many cars and large trucks on paved roads to the occasional transit of a motorcycle on an isolated primitive road.

Range Management: The planning area includes approximately 85 domestic livestock grazing allotments. BLM has historically permitted occasional vehicle use off roads to maintain improvements.

Recreation: The Gold Belt planning area possesses several distinctive features and attractions that define recreation in the area. The area is internationally known for the Gold Belt Tour National Scenic Byway (auto-touring), sport rock-climbing at the Shelf Road Climbing Area, and dinosaur fossil discoveries and research in the Garden Park Fossil Area. The area is regionally known for the solitude and unconfined recreation within the Beaver Creek WSA, backcountry horseback riding opportunities, and motorized recreation in the Torumup Commons including annual ATV competitions and the popular Independence Extreme OHV Trail.

Transportation: The existing BLM road network consists mostly of low standard native surface roads that are linked to county, state and federal highways. With few exceptions, the routes were established to access and serve specific purposes such as mining, grazing, timber, construction and maintenance of utility lines, etc. There are a total of 338 miles of BLM managed routes in the planning area.

Visual Resources: Class I areas, most valued for outstanding visual resources include the Beaver Creek WSA. Class II areas, highly valued for visual resources, include the Gold Belt Tour National Scenic Byway, the lands along Highway 9 and along Fremont

County Road 132 which provides access to the Beaver Creek trailhead. Class III areas, moderately valued for visual resources, include lands found in the backcountry away from primary viewing areas such as county roads and campgrounds. Class IV areas, least valued for visual resources, include lands in the vicinity of Cripple Creek and Victor.

Law Enforcement: A single law enforcement ranger is responsible for all of the public lands in the Royal Gorge Field Office handling enforcement actions relating to OHV use, mineral, land and realty, grazing, recreation, wild horse and burros, and other program violations.

Paleontological Resources: Notable paleontological areas in the planning area include the Garden Park Fossil Area and the Indian Springs trace fossil area.

Fire and Fuels Management: Fuels reduction treatments are on-going with the planning area including roller chopping or hydro-axing of pinyon-juniper forests, thinning of ponderosa forests and the selling of firewood as well as prescribed burns. None of the alternatives would affect the fire suppression efforts that normally occur in the area.

Socio-Economic: None of the alternatives will cause any major changes to the area's population, income or employment.

V. Discussion Questions

Group 1

What would be the process for the agency to approve and construct the connector trail?

What level of NEPA analysis would be required and what issues would be analyzed?

Group 2

What are the RS2477 issues associated with the travel management planning and implementation process?

Who would be the main players associated with RS2477 issues?

Group 3

What are the areas of special designation in the area of the case study? What significance do they have?

How do the findings in the Supreme Court case Norton v. SUWA affect this scenario?

What status do the lands in Senator Johnson's bill have? Can they still be designated wilderness if some impacts occur on the land before the passage of a wilderness bill?

Group 4

How does the proposed mining Plan of Operation (affectionately called a POO) fit in?

Can the Plan of Operations and the travel plan be analyzed together or separately?

What impacts do the potential mine and travel plan have on each other?

Group 5

How does the listing of the Pinyon Piper as an endangered species impact travel management planning and management of the area?

Since little is known about the species or its critical habitat, what options are open to the BLM in authorizing activities?

Travel Management Case Study Part 2

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TRAVEL MANAGEMENT PLAN CASE STUDY PART 2

Special Use Permit for two-day ATV event on the Independence Trail in the Copper Mountain Citizen's Proposed Wilderness

The Royal Gorge Field Office has received an application for a Special Use Permit for a two-day competitive ATV event. The proposal is to hold the competitions on the Independence Trail, a popular OHV and ATV route that goes up an old mining two-track route to the top of Copper Mountain.

This area is within the Gold Belt Travel Management Plan but the plan will not be signed off on before Joe Capricio needs to make a decision on this application. Joe already knows he is going to hear an ear-full from the conservation community because the Independence Trail goes through the Copper Mountain Citizen's Proposed Wilderness area. It would be considered a "cherry-stemmed" route but he knows that he will likely face opposition to the race.

The Independence Trail goes to a historic mining mill site at the end of the trail. The site contains the foundation and some of the walls from the old mill along with lots of old mining equipment. While the site is not included on the National Historic Register, the local BLM archeologist believes it is probably eligible and the local historical society has been interested in the site for years. Historic resources such as this are managed under FLPMA and the National Historic Preservation Act that says the agency shall "administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations."

The race operators, Colorado ATV Mtn. Association, have held other events on the public lands in the Royal Gorge resource area and Joe's staff considers them to be fairly responsible. They police their participants, clean up the trash after the event and focus on family oriented competitions. The president of the association is on the Resource Advisory Council for the Royal Gorge Field Office. This event is planned to be the first in a series of annual events and Joe knows that it is important to set the foundation right if he approves this event.

The lower part of the race near the start line is in a pinyon-juniper landscape but the Independence Trail climbs quickly in elevation to a ponderosa and fir mix landscape. It is possible that the first staging area near the starting line is in Pinyon Piper habitat but none of the species has ever been sighted in the area and no critical habitat has been designated.

BLM just received the Plan of Operations from the Colorado ATV Mtn. Association and the staff can now begin to analyze the proposal.

COLORADO ATV MTN. ASSOCIATION

Copper Mountain ATV Race Event

PLAN OF OPERATIONS

OVERVIEW: The race will be held on May 8th and 9th, 2005 with about 70 participants and an expected 250 spectators. This is planned to be the first of an annual event held every May up the Independence Extreme OHV Trail. Various classes of races will take place representing various classes of all terrain vehicles and levels of expertise and age. There will be two staging areas. The first, and largest, staging area will be at the intersection of the dirt road from Canon City and the two-track road up to Copper Mountain. Six port-a-potties will be placed here where most of the participants and spectators will park. Also at this staging area will be camping and the concession booths. The second staging area will be further up the race course along a particularly challenging rock incline where people will gather to watch the race; four port-a-potties will be placed there.

CONCESSIONS: CAMA members will provide a wide variety of concession booths including the sale of food and novelty items such as hats, shirts, bumper stickers and the like.

PERMITS REQUIRED: Two permits are required, one from Fremont County, the other from BLM.

CROWD CONTROL AND LAW ENFORCEMENT: Crowd control will be handled by CAMA volunteers, with traffic control handled by the Fremont County Sheriffs Department.

FIRE PREVENTION: CAMA will have a water pumper located at the lower staging area during the actual racing and trial activities for fire suppression. In addition, CAMA will notify the surrounding area fire departments as well as the BLM fire dispatch of race activities. Each race vehicle will be equipped with an onboard fire extinguisher unit. The safety network location in-between the start line and the finish line will have portable fire extinguishers.

PARKING: The main parking locations will be at the staging area near the start line and the second staging area which also acts as a viewing area. CAMA volunteers will direct parking to ensure the safety of participants and spectators.

SENSITIVE AREAS: Any areas that the BLM designates as ecologically sensitive and subject to unusual conditions shall be marked off as closed with flagging and signing. The historic mill site and other historic resources at the end of the trail will be monitored by volunteers when participants are in the area.

EMERGENCY RESPONSE: During both race days there will be a fully equipped ambulance available for dispatch, usually located as the start line. St. Thomas More

Hospital will be made aware of the event and the Flight for Life helicopter service will also be made aware of the event.

SANITATION: CAMA will provide port-a-potties that will be placed at the start line and the second staging area. CAMA will have the toilets serviced as needed.

GARBAGE DISPOSAL: CAMA has an agreement with the local trash company for the placement of two disposable dumpsters on the day prior to the start of the race. CAMA will pass out litter-bags at the staging areas and will be responsible for litter clean-up along the roadside and use areas following the event.

RACE VIEWING: All race viewing will be done from along the road and at the second staging area.

COMMUNICATIONS AND SAFETY NETWORK: A safety network of FM radios will be stationed along the race course. The radios will have separate frequency, and shall be strictly used for starting, stopping and cautioning race vehicles, should another vehicle get into trouble. Radio communications will be in touch with race officials, fire and ambulance equipment.

INSURANCE: CAMA carries a complete insurance policy with limits up to \$1 million of coverage to include, but not limited to, participant medical, and spectator liability. Fremont County, City of Canon City, and the BLM will be listed as additional insured.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0119
Expires: October 31, 2001

SPECIAL RECREATION APPLICATION AND PERMIT

(43 U.S.C 1201; 43 U.S.C. 1701; 16 U.S.C. 460 L-6(a); and 43 CFR Group 8300)

Permit No.
CO-700-RE-RV-05

Instructions: Complete Items 1 through 8, and return to appropriate BLM Office. (Use additional sheets, if necessary.)

Type or Print Plainly in Ink

WHEN SIGNED BY AUTHORIZED BLM OFFICIAL, THIS PERMIT AUTHORIZES

1. Name of person and/or organization

Address (include zip code)

Colorado ATV Mtn. Association
Helen Wheels, Race Director

1516 8th St
Manitou Springs, CO 80909

Telephone No. (include area code) Business

719-744-1408

Residence

719-744-8234

2. To use the following public lands (provide name, legal description and/or attach map).

Independence extreme ATV Trail up to top of Copper Mountain; see map

3. For the following purpose (provide full description of activity or event including number of anticipated participants and spectators).

ATV hill climb races. Approximately 70 participants & 250 spectators

4. During the following times and dates (specify below):

ARRIVAL			DEPARTURE		
DATE (Mon., Day, Yr.)	TIME		DATE (Mon., Day, Yr.)	DEPARTURE	
	AM	PM		AM	PM
May 8, 2005	7 ³⁰ am	5 ⁰⁰ pm	May 9, 2005	9 ⁰⁰ am	4 ⁰⁰ pm

5. Type of permit: ☐ Commercial ☐ Non-Commercial ☐ Other OHV events with 50 or more vehicles ☐ Other (list type)
☒ Competitive ☐ Non-Competitive ☐ Individual/ Private

6. Facilities (describe facilities including water and sanitation facilities you intend to provide, attach plans and location maps).

10 porta potties placed at two staging areas

7a. Previous permits: Have you been issued a permit for a previous event or activity (If "yes," answer the following.) **Yes**

b. BLM Office issuing permit **CO-700-RE-RV-02-15** c. Date of latest permit **5-03**

d. Have you, or your organization, forfeited any portion of any previous permit, bond, or surety submitted for use of public lands, or is any investigation or legal action pending against you or your organization for use of public lands? ☐ Yes ☒ No (if "yes," attach details on a separate sheet.)

8. Certification of Information: I CERTIFY That the information given by me in this application is true, complete, and correct to the best of my knowledge and belief and is given in good faith. I acknowledge that I (we) am (are) required to comply with any conditions or stipulations that are required by the authorized officer when the permit is issued.

Helen Wheels

(Signature of Applicant)

12-01-04

(Date)

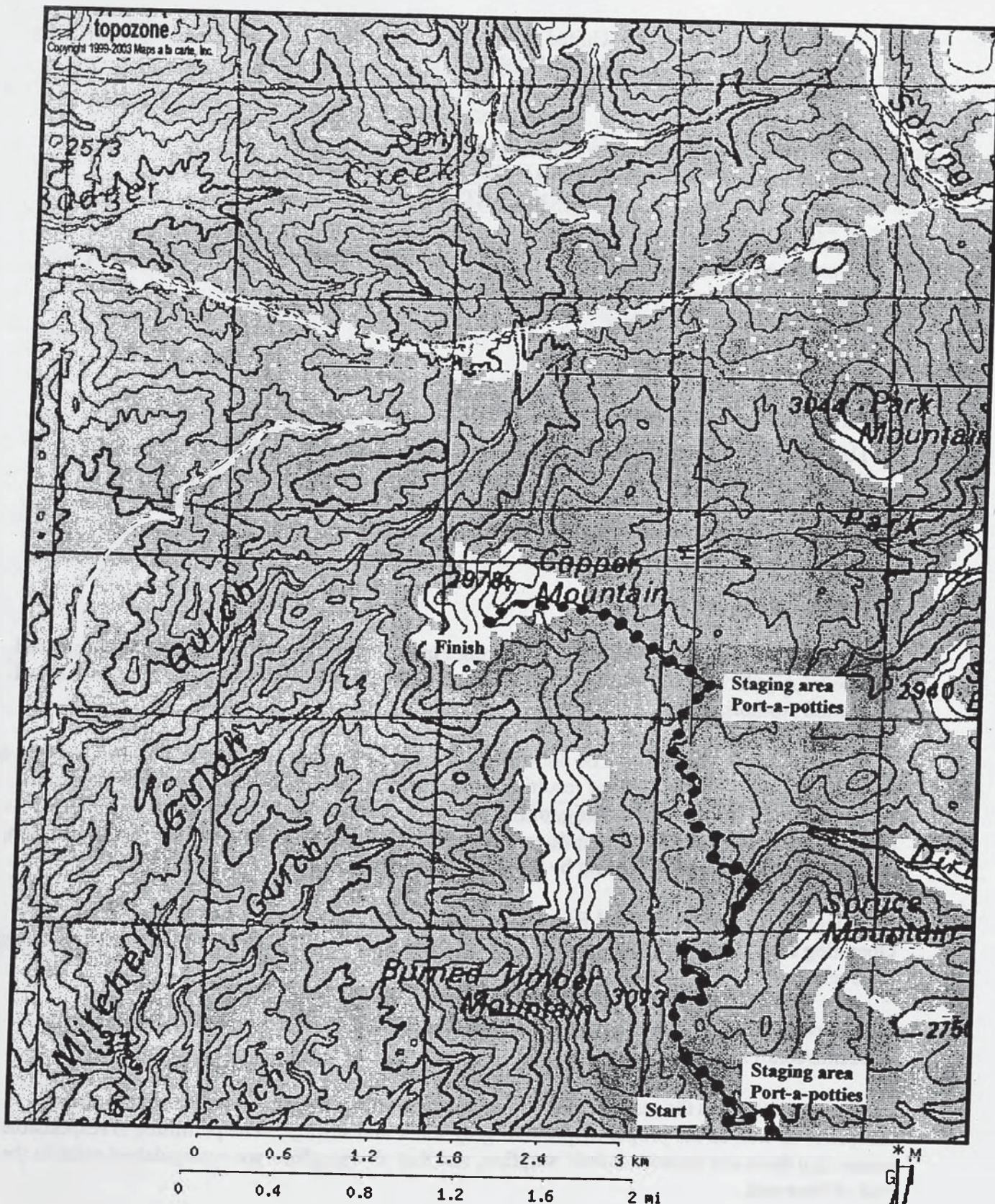
Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

This application is hereby approved subject to the conditions and special stipulations on reverse and any attachments.

(Signature of Authorized Official)

(Date)

PERMITTEE MUST HAVE THIS PERMIT (OR LEGIBLE COPY) IN POSSESSION DURING USE IN PERMITTED AREAS.



**Colorado ATV Mtn. Association
Special Recreation Permit Proposal
Race Course and Support Facilities**

M=10.278
G=-0.477



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
ROYAL GORGE FIELD OFFICE
3170 EAST MAIN STREET
CAÑON CITY, COLORADO 81212
**SPECIAL RECREATION PERMIT
ANNUAL OPERATING AUTHORIZATION**

Permit Applicant:
Colorado ATV Mtn. Association
President of Colorado ATV Mtn. Association
Helen Wheels, Race Director
1516 8th Street
Manitou Springs, Co 80909

The proposed commercial recreational use of public lands is described under permit number: CO-309-RG-RU-05-06. Requested authorization is for the time period May 1, 2005 to May 30, 2005. In addition to the standard stipulations (attached), additional special stipulations being considered for this application include:

Special Stipulations

- 1) All requirements identified in the Operating Plan submitted by the permittee are considered additional stipulations and requirements attached to this Special Recreation Permit and Annual Operation Authorization.
- 2) A post event inspection will be done by the Bureau of Land Management (BLM). Clean-up as well as mitigation of any damage resulting from this event to natural resources or facilities on BLM lands will be the responsibility of the permittee to repair to the satisfaction of the Field Manager. Clean-up and required mitigation will be done within 36 hours of the post inspection, unless otherwise agreed in writing by the local area manager.
- 3) A legible copy of the Special Recreation Permit, Annual Operating Authorization and the Operating Plan must be in the possession of all authorized representatives of the permittee during the event.
- 4) The permittee will flag the staging/parking area and monitor these areas to assure unsafe incidents/conditions do not occur.
- 5) The permittee has the responsibility to patrol spectator camping to insure the safe use of campfires as well as the proper disposal of grey water and sewage. The permittee is responsible to insure that there are no unattended campfires and that all campfires are extinguished prior to the end of the event.

6) The Permittee is responsible for compliance with the local county burning restrictions/requirements.

7) In order to minimize the possibility of vehicle accidents within the race area and excessive soil disturbance along the margins of the event; extraneous vehicle travel will not be permitted within the race course area. Permittee will insure that the parking of cars along the margins of the race area are located within existing disturbed areas and they are away from the race course, to avoid injury to race participation as well as spectators.

8) Trash cans will be used during the event and all flagging use by the permittee will be removed after the event.

9) During the race event the Colorado **ATV Mtn.** Association will ensure that the entrance and exits of the race course is physically blocked to insure that spectators and vehicles can not enter the race course during the event.

10) Colorado ATV Mtn. Association will have volunteers posted at the historic mill site at the end of the Independence Trail at the top of Copper Mountain at all times during the event. Volunteers will keep people off of the historic structures and ensure that no artifacts are removed from the site and that the site is kept free from trash and vandalism.

Date

Joe Capricio
Field Manager, Royal Gorge Field Office

Date

Helen Wheels
Race Director, Colorado ATV Mtn. Association

ADDITIONAL STANDARD STIPULATIONS FOR COMPETITIVE AND OFF-HIGHWAY VEHICLE EVENTS

FOR ALL PERMITS

1. Permittee is responsible for ensuring that participants do not drive off designated use areas and/or course routes; participant and spectator use will be restricted from sensitive resource areas.
2. Permittee is responsible for crowd control, ensuring that the event is orderly, does not endanger bystanders or participants, and is conducted in a peaceable manner to enhance recreation satisfaction and promote the public well being.
3. Permittee agrees to reroute and/or relocate use areas to avoid sensitive use areas identified by BLM before or during the event.
4. All range fence gates opened for the race will be monitored during the race to prevent passage by livestock and closed immediately at the end of the race.
5. Permittee will take all reasonable measures to ensure that entrants, spectators and casual users attracted by the event will not harass wildlife or livestock in the vicinity, including publication of notices discouraging such use in the local news media.
6. Permittee will take all reasonable measures to inform other recreationists in the area of the event and associated temporary road restrictions, including publication of notices to this effect in the local news media.
7. Permittee will mark sensitive areas identified by BLM, routes, staging areas, parking, and pit areas with non-defacing markers and appropriate signs and will ensure that all such materials are immediately removed upon completion of the event.
8. During the event, permittee will provide on-the-ground staff monitoring to ensure that use occurring is confined to areas actually authorized by permit.
9. Permittee is responsible for ensuring that all authorized motorized use conforms to the Conditions of Use set forth in 43 CFR Subpart 8341.1, regulations governing use.
10. Nothing in this permit will be construed as a license for the permittee, employees, or clients to use areas of the public lands which are otherwise restricted or closed (e.g., restrictive off-road vehicle designation areas).
11. Permittee is responsible for ensuring the safety of all spectator, entrant, concessionaire, and/or support personnel, ensuring that all permit actions are in conformance with local, state, and federal health and safety standards.
12. Permittee is responsible for furnishing self-contained chemical sanitation facilities and trash receptacles at locations as necessary, to keep these serviced neat and clean during the event, and to provide for off-site disposal of all refuse and human waste generated from the event, in accordance with all applicable local, state, and federal ordinances, laws, and regulations.
13. State and local laws and ordinances apply to all BLM-administered public land. This includes, but is not limited to, laws and ordinances governing (a) operation and use of motor vehicles, aircraft, and boats; (b) hunting and fishing; (c) use of firearms; (d) injury to persons or destruction of property; (e) air and water pollution; (f) littering; (g) sanitation; and (h) use of fire.
14. Operation and maintenance of all sanitation, food service, and water supplies, systems, and facilities by the permittee or his/her concessionaires shall comply with the standards of the local department of health and the United States Public Health Service.
15. Permittee will provide first-aid/EMT services adequate to meet emergency needs arising from the event, including CPR and medi-vac transportation for hospital care.

Questions for Part 2, Travel Management Case Study

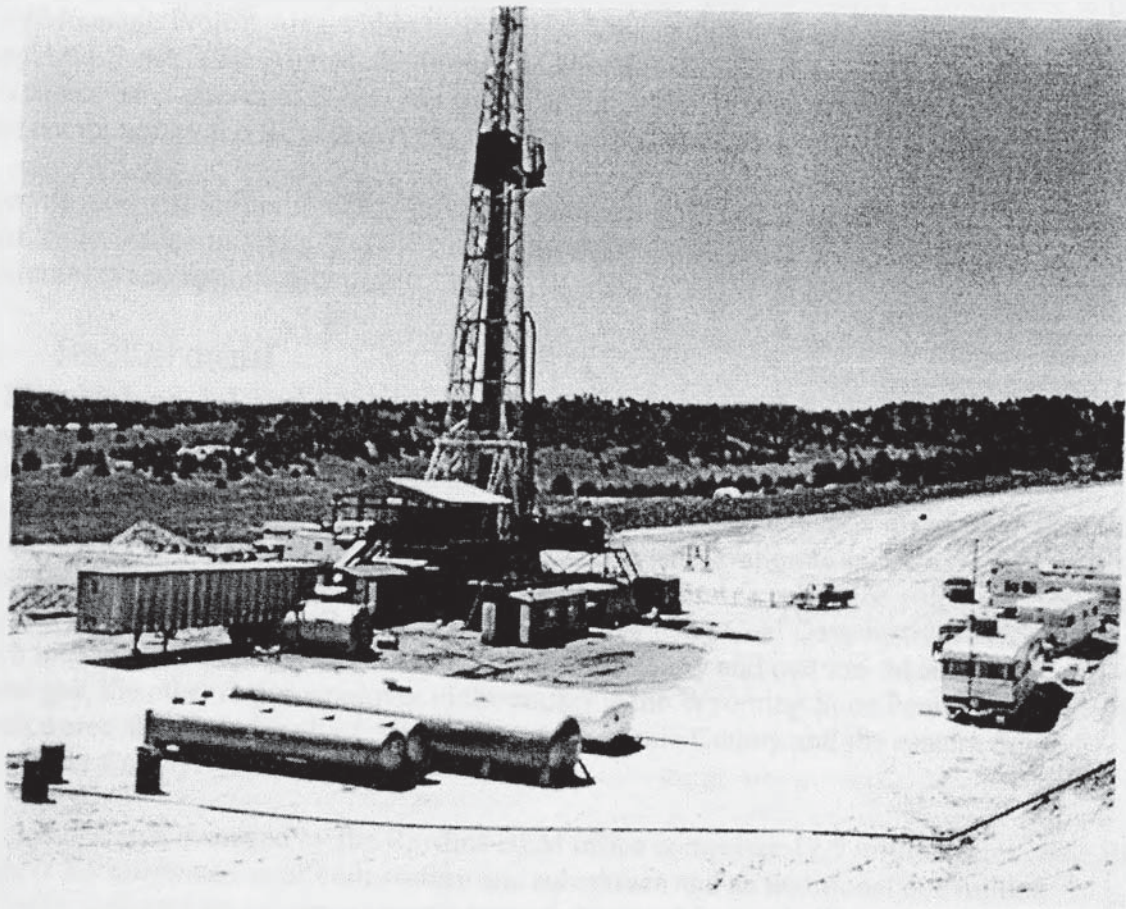
Will a NEPA analysis be required to approve the special use permit? What level of analysis? Will it tier off of an existing document? Which document?

How does this application relate to the Gold Belt Travel Management Plan? Can the background work and analysis from the Gold Belt Travel Management Plan be used?

What impact does the citizen's proposed wilderness have on Joe Capricio's decision making process? What impacts would the competitive event have on the area's chance for wilderness designation?

What impacts might the Pinyon Piper's recent listing have on this event? Is Section 7 consultation required for this special use permit?

IVb. Oil and Gas Development Case Study



THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
PUBLISHED WEEKLY
CHICAGO, ILL., U.S.A.



OIL AND GAS CASE STUDY¹

I. Brief Statement of the Issue

The WyGas Exploration and Development Company submitted a Plan of Development to the Bureau of Land Management (BLM) Rawlins Field Office. The Plan of Development is to explore and develop multiple coalbed methane wells and their associated infrastructure in the Doty Mountain Project Area within their federal lease and on adjacent private land. WyGas bought this lease at the August, 2000 lease sale but this is the first development on the leasehold. A National Environmental Policy Act analysis, in the form of an Environmental Assessment, has been completed by the BLM and is out for public comment.

Some members of the community, private landowners with split estates, and local conservation organizations are concerned that the coalbed methane development will negatively impact the environment and their quality of life.

II. Background

A. Physical, social and economic setting

Rawlins is the County seat of Carbon County in South-central Wyoming. With a population of 9,000 people, Rawlins makes up more than half of the population of Carbon County. The Continental Divide runs the north-south length of the county which has a diversity of ecosystems and elevations that run from the high deserts at 6,000 feet elevation to mountain peaks over 12,000 feet. The mountains are covered with aspen, pine and fir while the valleys and hills are sage and rangeland. Carbon County is the home of the King Coal Days festival every July, which indicates the importance of coal to the local economy and culture. In addition to coal and natural gas, the other major employer in the county is the Wyoming State Penitentiary. The resource area also includes all of Albany County, Laramie County and the eastern third of Sweetwater County.

The resource area managed by the Rawlins BLM office comprises 12.5 million acres. The BLM manages 3.5 million acres of both surface and subsurface and an additional one million subsurface (mineral estate) acres (mostly beneath National Forests). The mineral estate managed by BLM is dependent on the mineral retention clauses in the acts that allowed the surface to leave Federal government ownership. In some cases, BLM owns all minerals, and in other cases just one or specific minerals (see Appendix A for an explanation of the various split estate scenarios).

The resource area also has a checkered surface land ownership pattern due to the historic railroad grants. The resource area includes about one million acres managed by federal agencies other than the BLM including the Medicine Bow National Forest and the Bamforth, Hutton Lake and Pathfinder National Wildlife Refuges and the F.E. Warren Air Force Base.

¹ The case study is fictitious but based on real life. The people and companies are entirely fictitious and the land use plans, project proposals and environmental analysis are based on real documents that have been adjusted to best serve the case study.

Southwestern Wyoming can be considered a sportsperson's paradise with ample gold medal trout streams and abundant big game such as elk, mule deer and antelope. Not only are the local people intimately connected to these resources through their own enjoyment and as outfitters and guides, but people from across the country come to this part of the state to hunt and fish. Non-game species are also becoming more important including the sage grouse, the black-footed ferret and the wolves that have migrated down from their reintroduction in Yellowstone National Park.

The Sand Hills Area of Critical Environmental Concern, designated for critical wildlife habitat and cultural resources, is within the lease area. The primary cultural resources of interest are a series of lithic scatter sites and three known wickiup sites that would be protected under the Archeological Resources Protection Act. The area is part of the Northern Arapahoe, Shoshone and Ute Indian Tribes' ancestral lands and they still have strong cultural and spiritual ties to the area.

While there are no designated BLM wilderness areas in the resource area, there are five wilderness study areas (WSA) including Ferris Mountains, Prospect Mountain, Bennett Mountains, Adobe Town and Encampment River Canyon. The Forest Service manages four designated wilderness areas east of Rawlins including Encampment River, Huston Park, Savage Run and Platte River and two wilderness areas south of the area in Colorado. Both the Mount Zirkel Wilderness (46 miles to the southeast) and the Rawah Wilderness (82 miles to the southeast) are Class I air sheds located downwind of the project area.

The United States Geologic Survey conducted mineral resource estimates under the Energy Policy and Conservation Act that indicated 84,518 billion cubic feet of natural gas resources were yet to be discovered in the Southwestern Wyoming Province. This includes both conventional and non-conventional gas resources. About 97 million cubic feet of natural gas and close to 1.3 million barrels of oil were produced in Carbon County in 2000. One indication of future production, approved applications for permits to drill, increased steadily in the county in recent years from 50 in 1995 to 162 in 2000 to 255 in 2003.

In 2001 the Carbon County ad valorem property tax on natural gas production was \$363 million and assessed valuation on oil production was \$31 million. Statewide in 2000, about \$125 million in severance taxes were levied against natural gas production and \$309 million in federal mineral royalty funds were distributed to entities in Wyoming.

In 1996 a survey was conducted in conjunction with the development of the Carbon County Land Use Plan to provide insights into the attitudes of residents regarding land use, oil and gas development, and natural resource conservation and use. Approximately 55% indicated that conservation of land, water and wildlife resources was more important than increased oil and gas production, while 37% indicated increased oil and gas production was more important.

The land use plan that covers this area for the BLM is the Great Divide Resource Management Plan (RMP), which was signed in 1990. Many changes have occurred in the past fifteen years including the explosive growth of natural gas and coalbed methane development; the increase in

recreation, hunting, and the use of off highway vehicles (OHVs); the increase in second home owners and retirees; and periods of prolonged drought among other things. The recent surge in coalbed methane wells brought into production on both federal and private minerals is approaching the number identified in the RMP's reasonable foreseeable development scenario.

Several wildlife organizations protested the RMP raising concerns the adequacy of the cumulative impact analysis on wildlife, the wildlife-livestock grazing conflicts, antelope-fencing conflicts, impacts to bald eagles. Protests also questioned the adequacy of protection for the Areas of Environmental Concern (ACECs), in particular asking why stipulations such as "no surface occupancy" were not used. These protests were considered to be resolved without making changes to the RMP. Lease stipulations are identified in the RMP in response to sensitive resources needing protection. The agency is scheduled to begin a plan amendment to update the RMP in a couple of months.

B. Players

The Federal Agency Official

Willa Ortega has been with the BLM for ten years and she has recently been promoted to Field Office Manager of the Rawlins Field Office in Rawlins, Wyoming. Prior to coming to Rawlins, Ortega spent time in the California BLM and the Washington Office. Prior to BLM she worked for the Idaho Department of Fish and Game and for an environmental consulting firm where she used her skills as a hydrologist. She has never worked in a Field Office with an active oil and gas program or with wild horse herds and she is looking forward to learning and growing in her new position. Given the strategic location of her Field Office in an area of sage grouse habitat, Ortega has been asked by the Washington Office to serve on a BLM committee to develop a conservation strategy for the sage grouse.

The BLM Petroleum Engineer

David Vail is the petroleum engineer who has worked with WyGas on their proposed project. He has been in the Rawlins Field Office for 18 years and has never seen it as busy as it is now. He is feeling pressure to meet all of the annual goals for issuing applications for permit to drill that the BLM State Office and Washington Office have assigned to the Field Office and he hasn't taken any vacation days all year due to the workload.

The BLM NEPA Coordinator

Anna Watson is the NEPA Coordinator that leads the interdisciplinary team of BLM employees who write the Environmental Assessments. She got this job last year fresh out of college and like the Petroleum Engineer, hasn't had a day off since she took the job. The staggering workload has prevented her from getting out to hike and fish like she hoped when she came to Rawlins.

The WyGas Project Manager

Mark Martin is the lead WyGas person in charge of getting the Doty Mountain oil and gas field into production. He has had success on the nearby private land where wells are currently being drilled, despite the angry disapproval of the surface landowners. He has had many years of experience working in coordination with the BLM in Wyoming and he fully understands all of

the hoops he is going to have to jump through. He has seen the industry go through booms and busts and is glad that the boom time came when he is paying college tuition for his twin sons.

The Wyoming Oil and Gas Conservation Commission

The commission is made up of the Governor, the Director of the Office of State Lands and Investments, the State Geologist and two members of the public appointed by the Governor. Governor Dave Freudenthal recognizes the huge contribution that federal mineral development makes to this state in terms of shared royalties, ad valorem taxes, and jobs but he is also aware of the growing frustration on the part of landowners, businesses that rely on Wyoming's fish and wildlife, and conservationists. The Commission regulates all aspects of oil and gas development.

The Private Land Owners

The Arnold family ranch is located on private lands within the Doty Mountain Project Area. While the ranch base property is only 320 acres, they have BLM grazing permits on 10,000 acres in the area. The family ranch goes back to 1909 when the land was patented to a distant relative of the Arnold family who, a few years later, sold the ranch to the Arnold family. The distant relative retained all of the mineral rights when he sold it to the Arnolds and his descendants have recently leased the mineral estate to WyGas. WyGas plans to develop these minerals as a part of the Doty Mountain Plan of Development. Last year, due to both drought and what the BLM called "land health standards" the Arnold's allotments have been cut back by 45% and they do not think they can economically continue to rely on the livestock portion of their operation. The elder Arnold's have decided to retire from commercial cattle ranching and go into business with their children to run a dude ranch. They would keep their grazing permit and run some cattle so their visitors can go on cattle drives. They hope to build some guest cabins and pursue hunting and fishing outfitting to take advantage of their beautiful location. The Arnold's have been long time members of the Boone and Crockett Club and anticipate that other club members will want to come to their ranch for their outfitting services.

III. Proposed Agency Action

A. Proposal for CBM Exploration and Development

WyGas Exploration and Production Company (WyGas) has proposed to explore and potentially develop coalbed methane wells in the Doty Mountain Project Area located in Carbon County, 25 miles southwest of Rawlins. The Doty Mountain Project Area is composed, partly of federal surface estate with federal mineral estate administered by the BLM and partly of private surface with private mineral estate. This proposal is for a Plan of Development for multiple wells within the area, not a single well Application for Permit to Drill. The proposal consists of drilling, completing and producing a total of 24 exploratory coalbed methane wells; the use of 2 deep injection wells for produced water; construction, maintenance, and use of appurtenant access roads, pipeline and utility corridors; and a compressor station. The Doty Mountain Project Area encompasses approximately 1,920 acres and the life of the project is estimated to be from 10-20 years.

Of the 24 proposed well locations, 16 wells would be located on surface ownership lands administered by the BLM and would develop federal minerals currently under lease to WyGas. The remaining proposed wells would develop private minerals on fee surface (i.e. private lands).

One proposed deep injection well would be located on lands administered by the BLM. The compressor station and one proposed deep injection well would be located on private lands. The total number of acres disturbed is estimated to be 128.4 with 29.3 acres remaining disturbed during the life of the project operations.

B. Environmental Analysis

The draft environmental analysis considered two alternatives and is currently out for a 30 day public comment period. The proposed action alternative assessed and disclosed the projected effects of WyGas's proposal as outlined above. The "no action" alternative assessed the effects of not implementing any portion of the proposal on federal land and minerals, although gas development is occurring nearby on the private land with private minerals under permission from the Wyoming Oil and Gas Conservation Commission. Two other alternatives for access roads and market pipelines were considered but not analyzed due to these alternatives potential to affect greater sage grouse leks, elk and mule deer crucial winter ranges, and a prairie dog town.

The NEPA analysis needs to be developed based on a reasonably foreseeable development scenario. It is likely, given the geology of the Doty Mountain Project Area, exploration and extraction of coalbed methane will continue as long as it is commercially feasible. As this exploration and development continues, additional applications for permits to drill will be requested on other Federal mineral estates in the Doty Mountain Project Area.

Federal regulations require BLM approval prior to such Federal well development activities. BLM policy requires a site specific analysis of surface disturbing activities on Federal leases and/or BLM surface. Also required is a cumulative impact analysis related to the BLM action(s). The purpose of this Environmental Assessment is to determine the significance of the impacts as a result of the potential BLM approvals of Federal well development. An Environmental Impact Statement (EIS) will be required only if determination is made that significant impact(s) will result from BLM approved actions.

It is also apparent because of private well development activity to date that the private development is only marginally related to or dependent on Federal oil and gas development. It appears that potentially all development on private lands with private minerals would occur regardless of the BLM decision. This analysis must take this into account in determining significance of the Federal action as related to the whole.

The affected environment section of the draft EA for the Doty Mountain Project Area Plan of Development is included in Appendix B.

C. Exploration and Development Process

Assuming the agency makes a determination of a finding of no significant impact (FONSI) and issues a decision record allowing the project, the decision is subject to administrative relief through a State Director's Review or an appeal. All actions and decisions of the BLM pursuant to the oil and gas program are subject to State Director Reviews, appeals, or both, upon request.

Before construction begins, the company must submit a federal Application for Permit to Drill (APD) and a right-of-way (ROW) application along with a preliminary Master Surface Use Agreement, Master Drilling Plan, Water Management Plan and a project map that shows the specific location of the proposed activity (such as individual drill sites, pipeline corridors, access roads, or other facilities).

The APD would include site-specific plans that describe the proposed development (drilling plans with casing/cementing program; surface use programs with construction details for roads and drill pads; a water management plan; and site-specific reclamation plans). Site-specific conditions attached to the APD are called conditions of approval and are designed to prevent unnecessary or undue degradation of the environment. The conditions of approval are developed through the NEPA process and periodically evaluated for necessity and effectiveness through an on-going monitoring program. If resource conditions deteriorate to the threshold level contemplated in the land use plan or APD NEPA document, the Field Manager must take measures to mitigate future impacts.

The location of the proposed facilities would be staked by WyGas on the ground and inspected by an interdisciplinary team or an official from the BLM to verify consistency with the RMP and stipulations contained in the oil and gas leases. WyGas would submit detailed descriptions of the proposed activity or construction plans that address concerns related to construction standards, required mitigation, and other issues.

IV. Applicable Laws and Guidance

A. Laws

The primary laws applicable to this situation (see attachment for detail) are the Federal Land Policy and Management Act, the National Environmental Policy Act, the Mineral Leasing Act and Federal Onshore Oil and Gas Leasing Reform Act, the Multiple Use Sustained Yield Act, the Archeological Resources Protection Act, the Wild Horse and Burro Act, the Clean Air and Clean Water Act, the Endangered Species Act and the Wyoming State laws governing oil and gas, air, water and wildlife.

B. Oil and Gas Regulations

The primary regulation of interest is 43 CFR Subpart 3160, regulating onshore oil and gas operations. <http://www.blm.gov/nhp/300/wo310/legsregs/3160.html>

43 CFR Subpart 3160	Onshore Oil and Gas Operations
43 CFR Subpart 3161	Jurisdiction and Responsibility
43 CFR Subpart 3162	Requirements for Operating Rights Owners and Operators
43 CFR Subpart 3163	Noncompliance, Assessments and Penalties
43 CFR Subpart 3164	Special Provisions
43 CFR Subpart 3165	Relief, Conflicts and Appeals

C. Executive Orders

Executive Order 13211 of May 18, 2001, signed by President George W. Bush, states that agencies shall prepare a Statement of Energy Effects when the agency takes an action that has an adverse effect on energy supply, distribution or use.

Executive Order 13212 of May 18, 2001, signed by President George W. Bush, states "agencies shall expedite their review of permits or take other actions necessary to accelerate the completion of [energy-related projects] while maintaining safety, public health and environmental protections."

Executive Order 13352 of August 26, 2004, signed by President George W. Bush, directs the Department of the Interior, along with several others, "to implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking."

Cooperative conservation is defined as actions that relate to use, enhancement and enjoyment of natural resources and that involve collaborative activity among governments, for-profit and non-profit organizations, nongovernmental entities and individuals. In particular, the federal agencies must carry out their programs in ways that "take appropriate account of and respects the interests of persons with ownership or other legally recognized interest in land and other natural resources" and in ways that properly accommodates local participation.

D. Instruction Memorandum

Instruction Memorandum No. 2002-053 directs the Field Offices to prepare a "statement of adverse energy impact" whenever their decisions or actions will have a direct or indirect adverse impact on energy development, production, supply and/or distribution.

Instruction Memorandum No. 2003-234 defines lease stipulations as "conditions of lease issuance that provide protection for other resource values or land uses by establishing authority for substantial delay or site changes or the denial of operations with the terms of the lease contract. The authorized officer has the authority to relocate, control timing, and impose other mitigation measures under Section 6 of the Standard lease Form. Lease stipulations clarify the Bureau's intent to protect known resources or resource values."

Instruction Memorandum No. 2004-089 defines the Reasonable Foreseeable Development (RFD) scenario. An RFD scenario is a long-term projection of oil and gas exploration, development and production in a defined area for a defined period of time and is the basis for the NEPA analysis done for RMPs. The RFD assumes that "all potentially productive areas are open [to oil and gas development] under standard lease terms and conditions." The fact that the total number of wells in an area may exceed the total number of wells projected in the RMP does not automatically mean that a supplement to the NEPA documentation or a revision to the RMP is necessary.

Instruction Memorandum No. 2004-110 states that BLM State Directors should generally follow current land use allocations and existing land use plan decisions related to oil and gas while they are preparing plan amendments or revisions. However, State Directors do have the discretion to *temporarily* defer leasing on specific tracts of land while the agency undergoes planning.

Instruction Memorandum No. 2004-194 on Best Management Practices (BMPs) notes that "[t]he early incorporation of best management practices into Application for Permit to Drill (APD) by

the oil and gas operator helps to ensure an efficient and timely APD process.” BMPs are to be adapted to meet the needs of the site-specific situation. When selecting the appropriate BMP, BLM guidance directs the agency employees to consider using the least restrictive that would accomplish the same resource protection objective and consider the cost of the practice relative to the value of the resources to be protected.

<http://www.blm.gov/nhp/300/wo310/O&G/Ops/operations.html>

E. Agency Handbooks and Manuals

Agency handbooks provide guidance to the State and Field Offices while agency manuals are generally more procedural and must be read in conjunction with the relevant regulations.

The primary agency handbook for this scenario is the Surface Operating Standards for Oil and Gas Exploration and Development, also called the “Gold Book” which outlines the responsibilities and standards for geophysical operations on public lands.

<http://www.blm.gov/nhp/300/wo310/O&G/Ops/GoldBook.pdf>

Other agency handbooks and manuals include:

H-3150 Onshore Oil and Gas Geophysical Exploration Surface Management Requirements Handbook

<http://www.blm.gov/nhp/efoia/wo/handbook/h3150.html>

H-1790-1 National Environmental Policy Act Handbook

<http://www.blm.gov/nhp/efoia/wo/handbook/h1790-1.pdf>

MS-3150 Onshore Oil and Gas Geophysical Exploration Surface Management Requirements Manual

<http://www.blm.gov/nhp/efoia/wo/manual/3150.html>

APPENDIX A

SPLIT ESTATE SCENARIOS

Mineral/Surface Owner	O&G Management Based on Ownership
Federal all minerals & public surface	-BLM full mineral management -BLM full surface management -BLM issues ROW on non-lease oil and gas activities
Federal all minerals & private surface	-BLM full mineral management -BLM surface management with consideration for land owner preference
Federal all minerals & state surface	-BLM full mineral management -BLM surface management with consideration for land owner preference
Federal oil & gas minerals and private surface	-BLM oil & gas mineral management -BLM surface management with consideration for land owner preference
Federal oil & gas and coal minerals and private surface	-BLM oil & gas mineral management -BLM surface management with consideration for land owner preference
Federal "other" minerals and private surface	-BLM oil & gas mineral management -BLM surface management with consideration for land owner preference
Private minerals and public land surface	-BLM surface management, ROW required for any oil & gas operation -Mineral management by state OGCC in accordance with private oil & gas lease
Federal coal minerals and private surface	-BLM oil & gas royalty inspection only -BLM will work with state OGCC for any coal protection needed
Federal coal minerals and state surface	-BLM oil & gas royalty inspection only -BLM will work with state OGCC for any coal protection needed
No federal minerals and private surface*	-BLM oil & gas royalty inspection only
No federal minerals and state surface*	-BLM oil & gas royalty inspection only

*BLM interest is in drainage of the nearby federal oil and gas resource.

APPENDIX B

NEPA ANALYSIS AFFECTED ENVIRONMENT

Geology and Mineral: The project area occupies the southeastern portion of the Greater Green River Basin, a large intermontane structural and topographic basin that is part of the Wyoming Basin Physiographic Province. The project area is located in an area that has been heavily dissected by the tributary drainages of Dry Cow Creek and Muddy Creek. The three primary mineral commodities that occur in Carbon County are coal, natural gas and oil. Production of these mineral resources has occurred in the project area, with coal mining being the least significant production to date. The surrounding basin has been explored and developed for oil and gas resources for many years.

An earthquake that measured 4.3 on the Richter scale occurred on April 4, 1999, about 5 miles southeast of the project area. No other earthquake epicenters have been recorded in or immediately adjacent to the project area in the past 100 years.

Paleontology: Fossils known from the Lewis Shale represent a large and varied marine invertebrate fauna, including many genera of bivalves, baculites, scaphites, and ammonites. Significant fossils are known from the Lewis Shale in Wyoming, still, the potential for discovery of scientifically significant fossils in the project area is considered to be low.

Air Quality: The project area is located in a semiarid, upland regime of the northern Great Plains that is typified by dry, windy conditions with limited rainfall and long, cold winters. The area is subject to strong gusty winds, which reflect the channeling and mountain valley flows caused by the complex terrain. During the winter, strong winds and snow often produce blizzard conditions and drifting snow.

Emissions are limited within the project area, with only a few industrial facilities and residential sources in the relatively small communities and isolated ranches. In addition, the good atmospheric dispersion conditions in the area typically result in low concentrations of criteria air pollutants.

Soils: The soils resource forms the basis by which to assess the intensity, duration and magnitude of soil impacts associated with the construction of access roads, well pads, and facilities and to develop effective mitigation measures to prevent, reduce or eliminate impact to the soils resource. Productivity of soils can be affected by removal of vegetative cover, invasion by undesirable weed species, soil compaction and an increased potential for wind and water erosion.

Groundwater: The project area is located in the Colorado Plateau and Wyoming Basin groundwater regions, the Upper Colorado River Basin groundwater region and the Washakie Basin where groundwater is generally found in artesian aquifers, although it is also present in unconfined alluvial valleys and in isolated, saturated outcrops. Seven permitted water wells are within one mile of the project area; six are within the inferred circle of influence (within ½ mile radius).

Surface Water: The project area is located in the Muddy Hydrologic Unit in the Colorado River Basin. The nearest perennial stream is Muddy Creek located 1.5 miles north of the project area.

Vegetation: The project area is located in the sagebrush steppe plant community that is typical of the high intermountain desert of south-central Wyoming. The primary vegetation cover type is Wyoming big sagebrush, consisting of a mixture of greasewood, Wyoming big sagebrush, rabbit brush and saltbush, with interspersed mixed grasses. The only federally endangered plant species that might occur in the area is the Blowout Penstemon. Seven plant species of concern may occur with the project area of which the Gibben's beardtongue has the highest priority for conservation.

Wetlands: No special aquatic sites or wetlands have been identified in or near the project area.

Noxious Weeds: The project area is vulnerable to infestations of noxious weed species such as Canada thistle, musk thistle, Russian knapweed and whitetop and invasive species such as black henbane, halogeton and cheatgrass.

Range Resources: The project area is entirely within the Doty Mountain Allotment being used by a cow-calf operation. About two thirds of the range is considered in good condition; the remainder is either in poor or undetermined condition. The season of use is from April 1 to December 31. Water is occasionally limited within the summer pastures.

Wildlife: Three big game species, pronghorn antelope, mule deer and elk, occur within the project area. The area is designated winter and yearlong range for pronghorn and mule deer, and spring, summer and fall range for elk in the Sierra Madre Mountains and winter range to the west. Many species of raptors occur in the project area including the golden eagle, northern harrier, northern goshawk, sharp-shinned hawk, Cooper's hawk, red-tailed hawk, Swainson's hawk, rough-legged hawk, ferruginous hawk, American kestrel, merlin, prairie falcon, peregrine falcon, short-eared owl, long eared owl, great-horned owl and burrowing owl.

Special Status Species-Wildlife and Fish: Greater sage grouse are common in the project area year-round and while the greater sage grouse is not formally listed as threatened or endangered, it is a BLM sensitive species and is being watched for potential listing. The black-footed ferret and associated white-tailed prairie dog colonies are in the project area. The area is used by bald eagles during the winter months. Four federally endangered fish species may occur in the Little Snake River downstream from the project area including the Colorado pikeminnow, bonytail, humpback chub and razorback sucker. In addition, six mammal species, sixteen bird species, three amphibian species and four fish species are listed as BLM Wyoming species of concern.

Wild Horse and Burros: The Windy Hills wild horse herd surrounds the project area. This herd is managed to maintain between 150-180 head. Concerns have been raised as to whether the exploration, production and operations associated with the proposed action could discourage the wild horses from utilizing the forage and water near oil and gas facilities. Distributing produced water to help meet the herd needs is also a consideration.

Recreation: Hunting, camping and off-road vehicle use are the most popular recreational activities in the project area even though there are no developed recreational sites or facilities. Outside the hunting season, the area attracts small numbers of visitors who engage in rock collecting, camping and hiking, observing wildlife and wild horses, outdoor photography and picnicking. The Ferris Mountains WSA is adjacent to the project area.

Visual Resources: The visual resource management class of the project area is Class III; the objective for this class is to provide for management activities that may modify the existing character of the landscape, however, changes should remain subordinate to the visual strength of the existing character.

Cultural Resources: A considerable amount of fieldwork has occurred near the project area, resulting in the documentation of cultural resources through survey, examination of ethnographic records, and research of historic records. The area has numerous lithic scatter sites and three known wickiup sites.

Socioeconomic: Basic economic sectors that bring revenues into the county include oil and gas production and processing, coalmining, electric power generation, agriculture (primarily ranching and logging), some manufacturing, and transportations (primarily the Union Pacific Railroad). Those portions of the retail and service sectors that serve travelers and tourism and recreation visitors are also basic.

Environmental Justice: The project area contains no tribal lands or Indian communities and no treaty rights or Indian trust resources are known to exist in the area.

Transportation: The regional transportation system includes an established network of interstate and state highways and county roads. Improved and unimproved roads serve the project area.

Health and Safety: There has been recent concern among drillers that worker safety standards and training used for conventional oil and gas may not be appropriate for the coalbed methane industry. During 2000, five workers died and six others were seriously injured in CBM related accidents in Campbell County, Wyoming alone.

Noise: The project area is located in a sparsely populated rural setting with minimal sound disturbances. Vehicular traffic, over flights by jet aircraft at high altitudes, and nearby drilling cause sound disturbances with the area. The principal source of sound in the area is the wind.

Wilderness and Areas of Critical Environmental Concern: The Sand Hill ACEC, designated because of the critical wildlife habitat it contains, is adjacent to the project area. Parts of the ACEC are covered by oil and gas leases held by Wygas. Timing stipulations limit the season that construction and drilling can take place but there are no "no surface occupancy" stipulations in place. The Ferris Mountains wilderness area is contiguous with the project area along the southern border.

V. Discussion Questions

Group 1

What impacts do the checkerboard surface land ownership and the split estate ownership of minerals have on this scenario?

What interests does the Arnold family have and whom should they be trying to influence?

Group 2

Who are the key decision makers and how are they involved?

What is the significance of the Executive order on Facilitation of Cooperative Conservation and Instruction Memorandum No. 2004-231 on cooperating agency relationships? How does this affect your strategies to influence the local decision maker?

What role does local government have in permitting this development?

Group 3

What is the geographic and temporal scope of the appropriate NEPA analysis?

How will the proposal and associated developments fit into the "tier-ing" of NEPA analysis?

What are the advantages of doing a plan of development?

Group 4

What are the differences between lease stipulations, mitigation measures and best management practices? When do they come into play?

What is the significance of Instruction Memorandum No. 2004-194 on best management practices?

Group 5

Which aspects of the affected environment are most critical and what laws guide the management of these resources?

Is the range of alternatives analyzed in the Environmental Assessment appropriate? What, if any, additional alternatives would you recommend?

What mitigation measures should be considered and what issues are associated with them?

1. The first part of the report deals with the general situation of the country. It is a very interesting and informative study of the country's development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's development.

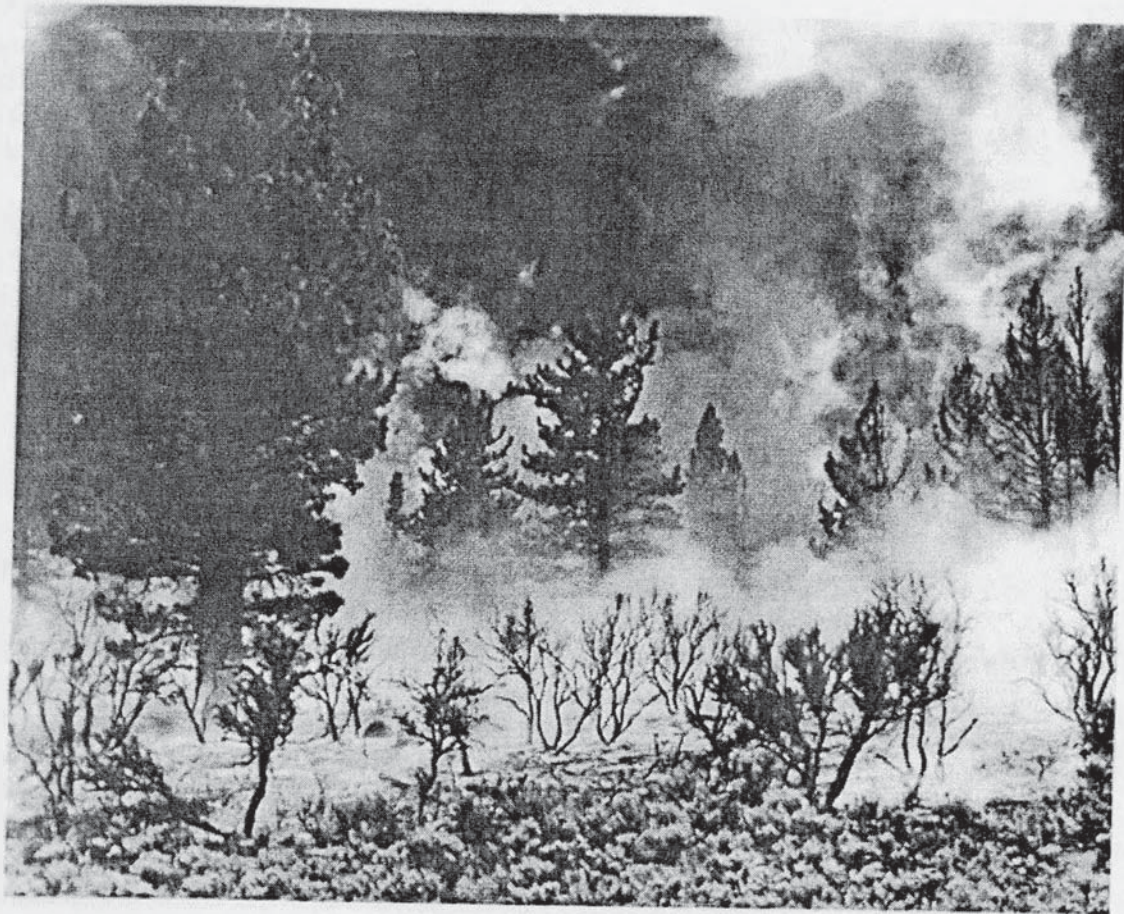
2. The second part of the report deals with the economic situation of the country. It is a very interesting and informative study of the country's economic development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's economic development.

3. The third part of the report deals with the social situation of the country. It is a very interesting and informative study of the country's social development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's social development.

4. The fourth part of the report deals with the political situation of the country. It is a very interesting and informative study of the country's political development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's political development.

5. The fifth part of the report deals with the cultural situation of the country. It is a very interesting and informative study of the country's cultural development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's cultural development.

IVc. Timber/Fuels Reduction Case Study



IVE Timberline Reduction Case Study



FORESTRY CASE STUDY¹

I. Brief Statement of the Issue

The R-W Forest and its environs epitomize the new West with its mosaic of recreation areas, second homes, ranches and struggling timber industry. Area land managers struggle with the conflicts between extractive and non-extractive uses of the land and with management needs of the forest. User conflicts as well as limited funding have left the WUI Ranger District with a backlog of habitat restoration projects and timber sales.

Following passage of Stewardship Contracting (SC) and the Healthy Forests Restoration Act (HFRA), the Forest Service has new tools and new rules for managing the forests. Funds may be available for fuels reduction and related projects through the National Fire Plan- and HFRA-related appropriations. The WUI district staff would like to accomplish its restoration goals and provide timber and forage to support the traditional industries on the forest.

II. Background

A. Physical, social and economic setting

The proposed project is on the R-W (R bar W) Forest, which includes two ranger districts in two counties -- the Resort Ranger District in Resort County and the WUI District in WUI County. The two counties and corresponding districts are adjacent to one another, with Massive Mountain on their common border and forming their headwaters. Massive Mountain is considered sacred to a Native American tribe with a reservation several hundred miles away. Signs of both Indian and early settler camps and trading routes (e.g., lithic scatters, log house remnants) are scattered throughout both districts of the R-W Forest.

The Resort District includes the Massive Mountain Wilderness Area (WA). The lower slopes of Massive Mountain in the Resort District have been developed as a destination ski area with significant condo and second home development in the valley and year-around recreation. The economy of the county depends on its gorgeous scenery and pristine waters and air. The lower slopes of Massive Mountain in WUI County/District include both the Midi Mountain Wilderness Study Area (WSA) and the Mini Mountain inventoried roadless area. Both districts and counties have high potential for additional backcountry and developed recreation.

The WUI District in WUI County, is feeling the pressure of second home development and increased recreation, but its historical base has been ranching (with small valley base ranches and large National Forest grazing allotments), and small-scale forestry. The small towns of WUI County are holding their own, drawing telecommuters as well as second home owners, but the

¹ The case study is fictitious but based on real life. The people are entirely fictitious but the project proposals are based on real plans and existing projects adjusted to best meet the case study format.

traditional industries of WUI County are hurting economically. Some of the ranchers are turning to dude ranching and outfitting to make a living, but many of the young folks are moving away for better jobs.

WUI District supports local ranching – both traditional and dude ranching – with summer grazing permits on most of the forest, including the WSA and ROADLESS AREA. Timber production in the area has never been significant because there is not much large timber, yet there is substantial small material – most likely the result of decades of wildfire suppression. Resource specialists in the Forest Supervisor's Office estimate that several hundred thousand acres in the WUI District need thinning to improve forest health throughout the area and to reduce the threat of wildfires in the wildland urban interface. The local saw mill was not equipped to handle the small diameter material and closed in the mid 1990s. Since then, timber production has been almost non-existent and the district timber staff was transferred off the forest and replaced by recreation and NEPA specialists.

The WUI Forest Land and Resource Management Plan (Forest Plan) allows provides management direction for both districts. The Forest Plan and its EIS provided for timber production and grazing throughout most of the WUI District with some restrictions on the Midi Mountain WSA and in the Mini Mountain roadless area.

The “old-timers” of WUI County are resigned to the “New West” developments, including the local espresso shops, but are not willing to totally abandon the high-paying jobs of industry in their county. A descendant of one of the early homesteaders is talking about several potential new industries for the old mill site on the outskirts of one of the small towns. He hopes to build a small biofuels power plant on the site. The plant would run a renovated steam turbine by burning chips from small diameter thinning projects in a boiler from the old timber drier. Once operational, it could supply year-round power to the town and several new, local industries:

- One local entrepreneur wants to reopen the mill, on a smaller scale, as a worker owned business. They may be able to retool for small diameter materials, but some larger material would clinch the economics.
- A decorative cinderblock plant that uses waste fly ash from an area coal-fired power plant could also use the power.
- A wood pellet plant might also open and use the power if the developer can secure a dependable supply of small diameter material to make pellets.

Like many other areas of the West, recent wildfires have begun to worry area communities on both sides of Massive Mountain. Even with the threat of fires, second home owners and even many permanent residents have done little of the tree thinning necessary to make their own homes “fire safe.” Resort County, has prepared a community wildfire protection plan; WUI County is thinking about it, but has taken no action.

Property owners (both residential and commercial) are, however, worried about the spread of forest insects and diseases that threaten their scenic views. Many locals are particularly concerned since a spring wildfire affected over 1500 acres of trees in the Mini Mountain roadless area and adjacent forest. They are concerned that leaving the dead wood will facilitate spread of insects, not to mention being a major waste of usable wood. Locals are also vaguely aware that

weeds (some of them "mighty pretty wildflowers") are becoming a significant problem on the Forest.

The WUI District staff is aware of both problems. The R-W Forest staff did some vegetation survey work on the district a few years ago for the Forest Plan and the WUI County Invasive Plant Posse, a community group that works to detect invasive species and sponsor volunteer weeding parties, has done a qualitative assessment of the area for weeds. University-based botanists have also been on the R-W Forest doing plant survey work. They have only been doing reconnaissance work on the WUI District, but seem to think that there is potential for at least one threatened and one candidate plant species in the district's riparian areas.

B. Players

District Ranger

Dee Rainer has been the WUI district ranger for several years. Prior to this job, he was a forest planner and NEPA coordinator in a Forest Supervisor's Office in North Dakota. Dee took the job in part to get closer to his wife's family who has a second home at a ski area on the adjacent Resort District.

Contracting Officers (CO)

The procurement CO has worked on contracts in the R-W Forest Supervisors' office for several years. He deals with all types of service contracts on the forest. The timber sale CO is a zone officer (working out of Delta CO or Laramie WY). He has been with the agency for nearly 30 years. His last 10 years have been working on timber sales in Region 2 and 3; his previous 18 years were in Region 1 where there is *real* timber.

Range Conservationist

Ed Teesle has been the range con on the district for many years. He has seen district staff and projects come and go and is more than a bit skeptical of these new "stewardship" projects. "What the heck do they think we've been doing all these years?"

Fisheries Biologist

Tina Brown has also been on the Forest for several years. She loves her fisheries job, but is burning out covering as a big game biologist since that position was vacated 6 months ago by a friend on emergency medical leave. The district just learned that the biologist will take a part-time position with the BLM. While the Forest Service plans to refill the position, it will probably take a few more months.

III. Proposed Agency Action

A. Background

In the early 1990s, before the local mill closed, the timber staff at the WUI Ranger District analyzed a 30,000 acre area for the WUI timber sale. The proposal included harvesting on 6,000 acres in each of 5 years. The sale proposed only temporary roads and skid trails and upgrades of a few miles of existing roads. Cost of the road construction and upgrade, to be borne by the Forest Service, was justified in the NEPA EA because some of them would subsequently serve for recreational use and cattle/sheep allotment maintenance. The WUI timber sale was appealed because it included part of a roadless area (that was later designated as the Mini Mountain inventoried roadless area) that environmental groups wanted to protect. While the roadless area was removed from the proposed sale and the EA was finalized with a FONSI and Decision Record, the timber sale contract was shelved. There had been only one very low bid on the original sale because of the marginal value of the timber, and the Forest Service decided not to rebid the sale after the mill closed in 1993. The timber sale would have required a minor amendment to the Forest Plan to comply with a prescription for area raptors and it just didn't seem worth the effort for the marginal sale.

At the same time, the range and wildlife staff on the WUI District saw a need for habitat improvement projects. The district grazing permittees see a real value in this area for mechanical treatment for forage production. The range has been suffering in the past few years because of drought, and, some have argued, too many AUMS permitted on the allotment. Both the district range con and wildlife biologist proposed mechanical treatments to take out young conifer overstories to create small meadows or to simply release the understories for better forage production. The WUI District range con would also like to see a more vigorous weed control program. Weed control would benefit livestock grazing and he has suggested experimenting with mechanical treatment and seeding for treating the most severely affected weed areas.

The fisheries biologist has always been skeptical of mechanical treatments, but she can see that a more vigorous native vegetation understory could reduce erosion and runoff into area streams if erosion from the treatment themselves can be minimized. Consequently, she is willing to support mechanical treatments with sufficient buffer areas to protect streams. She would also like to see some riparian habitat restoration work, several miles of road closures, and one small bridge construction project to reduce sedimentation in some of her stream segments. Several stream segments in the district are on the state's 303(d) list of impaired streams. The state has not yet developed the total maximum daily load (TMDL or pollutant budget) for those streams, but the forest hydrologist is already looking for ways to reduce the sediment load.

The district has done very little habitat improvement work for the last several years because funds just haven't been available or they have come too late in the fiscal year to be of much use. With few exceptions, district funds for habitat work come from Congressional appropriations. Service contracts – the financial instrument typically used to pay for this kind of service work (vegetation manipulation, road closures and construction, trail maintenance, etc) – are limited to

a one-year duration because the agency cannot commit procurement funds beyond their annual appropriation.

Several recent legislative and administrative changes have rekindled discussion of some of these timber sale and habitat improvement proposals:

- In 1998, Congress authorized Forest Service stewardship contracting pilot projects and expanded the program in 2003 to include the Bureau of Land Management and to permit an unlimited number of stewardship contract (SC) projects to be completed over the next 10 years. The Forest Service is considering an FY 2005 target of 270,000 acres of contracts to be awarded and the regions are worried about being able to meet the targets.
- In 1999, President Clinton issued the Noxious Weed Executive Order in order to prevent the introduction of invasive species, provide for their control, and minimize the economic, ecological, and human health impacts that invasive species cause. The Invasive Species Council issued its latest National Noxious Weed Management Plan in 2001.
- In August 2000, the Clinton Administration developed the National Fire Plan to actively respond to severe wildland fires and their impacts to communities while ensuring sufficient firefighting capacity for the future. The National Fire Plan addresses five key points: firefighting, rehabilitation of burned areas, hazardous fuels reduction, community assistance, and accountability. In part, National Fire Plan money can be used for community wildfire plans, small-diameter materials usage research and projects (e.g., biofuels, valued added construction with small materials)
- In early 2001, the Forest Service published the Roadless Rule to prohibit most road construction, road reconstruction, and timber harvesting in inventoried roadless areas (including the Mini Mountain area) on National Forests in order to provide lasting protection for these areas within the context of multiple-use management. In 2003, a Federal court in Wyoming struck down the rule, nationwide. In July 2004, the Bush administration proposed to replace the Clinton administration's national roadless area protection rule with state specific roadless management plans that must be designed and requested by state Governors.
- In 2003, Congress passed the Healthy Forest Restoration Act (HFRA). Title I deals with hazardous fuels reduction; Title IV with insect infestations and related diseases.
- In 2004, President Bush issued an Executive Order on Cooperative Conservation to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement environment- and natural resources-related laws in a manner that promotes cooperative conservation.

B. Project Plan

Considering all the events of the last several years, the WUI District Ranger is wondering if some of the projects of prior years can be resurrected and accomplished. Rainer has seen a lot of press on both SC and HFRA and the new Forest Service manual chapter on SC which details allowable project goals and objectives; planning of projects; contracting mechanisms; selecting contractors; applying new contracting authorities; bonding; funding of projects; monitoring and collaboration; and reporting requirements. While he is somewhat overwhelmed by all the

requirements, he thinks that there may be potential for a project to use one or both of these new laws, but he isn't sure what would work best or how much work to include in the project. He is also aware of the President's new executive order on Cooperative Conservation. Rainer believes in collaboration as a way of minimizing conflict over projects, but wants to make sure the district at least does the minimum required under the executive order.

Taking all this into consideration and after holding a couple of meetings with his staff and "coffees" with locals, Rainer is considering proposing a project with the following elements to the R-W Forest Supervisor:

1. Fuels reduction thinning on 120,000 acres over 12 years;
 - The thinning project would be mostly small diameter material, but some (9" – 12" diameter-breast-height (dbh)) could sell for poles and some larger material (> 12" dbh) as saw timber;
 - The treatment area includes some trees over 16" dbh, but the controversy generated by cutting these might not be worth the trouble.
2. Salvage of all salable timber on the 1500 acre wildfire area, including 300 acres in the Midi Mountain WSA. This project would have to be completed in FY 2005 or the wood will be worthless.
3. Mechanical treatment of about 8000 acres (for overstory opening and weed control) over eight years with 500 acres in the Mini Mountain roadless area and 100 acres in the Midi Mountain WSA; and
4. Closure of one mile of road, replacement of two culverts (larger in size and flat-bottomed to accommodate fish spawning), and willow plantings and reseeded of all disturbances.

Rainer knows that much smaller thinning contracts in SC pilot projects of the region have cost about \$400 per acre, but Rainer hopes that with the larger volume/longer duration, they might get that work done for \$250 per acre. Even without including any > 16" dbh material, the value of the timber from the thinning and fire salvage could equal about 40% of the cost of the thinning and mechanical treatments. The fishery biologist's riparian restoration, road closure, and culvert replacements would cost more, as would any prescribed fire treatment following the thinning.

With these kinds of costs and the long-term duration of the project, it is likely that the R-W Forest and its staff would have to be the principal proponents of the project and responsible for public involvement, NEPA analysis, project contracting, and providing the up-front funding needed. As a SC project, Rainer knows that there would be some extra hassles and some additional flexibility. As a HFRA project, there may be appropriated funding available.

IV. Applicable Laws and Guidance

A. Laws

The primary laws applicable to this situation (see attachment for detail) are:

- National Forest Management Act
- Healthy Forests Restoration Act
- Stewardship Contracting (passed as a rider on the Consolidated Appropriations Resolution FY2003)
- National Environmental Policy Act
- National Historic Preservation Act
- Archeological Resources Protection Act
- Clean Water Act
- Endangered Species Act
- Federal Advisory Committee Act

B. Regulations

1. Roadless Rule

In the last days of the Clinton Administration (January 2001), the U.S. Forest Service adopted the Roadless Area Conservation Rule (roadless rule) to prohibit road construction, road reconstruction, and timber harvesting in inventoried roadless areas in national forests. The rule affected 58.5 million acres. The Forest Service adopted the nation-wide rule arguing that these activities are most likely to change and fragment landscapes and result in immediate, long-term loss of roadless area values. The roadless rule included several exceptions for both road building and timber harvesting: Roads could be constructed or repaired to protect human health or safety from imminent dangers, for certain federal highway projects and mineral developments, and for resource protection or restoration. The roadless rule prohibited timber harvesting for commodity purposes, but allowed it for some limited purposes and circumstances. For example, the rule allowed timber harvesting of small diameter timber if harvest would improve certain roadless area characteristics and either improve threatened or endangered species habitat or reduce the risks of uncharacteristic wildfires.

As the Bush administration took office, controversy immediately raged over the new rule. After years of wrangling over the rule, a federal court struck it down in July 2003. Conservationists are appealing this court decision, and the Bush administration is trying to prevent the appeal.

The Bush administration proposed a new rule (July 16, 2004) to completely replace the Clinton administration rule. If the rule is finalized as proposed, the national standard for management of the inventoried roadless areas will disappear and governors could ask the Forest Service to establish state-specific management requirements for inventoried roadless areas in their state. Unlike the Clinton roadless rule, the new proposed rule does not set management prescriptions or even guidelines for roadless areas; instead, it would create an administrative process to adopt state-specific rules for management of these areas. State governors could propose management

schemes for roadless areas; the Forest Service could then adopt rules to implement the proposals if the agencies considers the proposals to be "appropriate."

2. Categorical Exclusions from NEPA for Fuels and Timber Projects (See Appendix B)

Agencies can decide that an entire category of their actions will not, either alone or in combination with other activities, have a significant impact on the environment and will not, therefore, require an EIS or an EA. Each federal agency can develop its own procedures for determining what type of actions should be "categorically excluded."

Two new CEs cover small timber sales and fire programs. The activities the Forest Service conducts under these CEs must be consistent with agency and Department of Agriculture procedures and with applicable land and resource management plans. They must also comply with all applicable federal, Tribal, and state laws for protection of the environment. The CEs do not apply where there are extraordinary circumstances, such as potentially significant effects on:

- Federally listed threatened or endangered species or designated critical habitat, species proposed for federal listing or proposed critical habitat, or species deemed sensitive by the Forest Service;
- Floodplains, wetlands or municipal watersheds;
- Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas;
- Inventoried roadless areas; Research natural areas; American Indian and Alaska Native religious or cultural sites; or
- Archaeological sites, or historic properties or areas.

Small Timber Sale Categorical Exclusions

The Small Timber Sale rule categorically excludes certain small timber sales from NEPA analysis. The rule creates exclusions for three categories of small timber sales:

- Harvest of live trees on not more than 70 acres;
- Salvage of dead/dying trees on not more than 250 acres; and
- Removal of any trees necessary to control insect and disease infestations on not more than 250 acres.

All of these exemptions are limited to projects involving no more than one-half mile of temporary road construction.

The purpose of the live tree harvest exemption is to expedite low-impact silvicultural treatments through timber harvest. Examples of projects that could be implemented under this category include thinning of overly dense stands of trees to improve the health and vigor of the remaining trees, and removing individual trees for forest products or fuel wood. The salvage exclusion allows salvage harvest in areas where trees have been severely damaged by forces such as fire, wind, ice, insects, or disease, and still have some economic value as a forest product. The insect and disease exemption allows the agency to cut trees to control insects and disease before they spread to adjacent healthy trees.

Fire Program Categorical Exclusions

The Forest Service and the Bureau of Land Management (BLM) have created two categorical exclusions related to fire. One is for hazardous fuels reduction activities; the other for rehabilitation activities for lands and infrastructure impacted by fires or fire suppression. These categorical exclusions are intended to facilitate the treatment of hazardous fuels and rehabilitation of areas in order to reduce risks to communities and the environment caused by severe fires.

The *hazardous fuels reduction category* can be applied only to activities identified through a collaborative framework and conducted in wildland-urban interface areas or in certain fire-prone areas outside the wildland-urban interface. Several restrictions will also apply to the hazardous fuels reduction activities that use the exemptions. Exempted projects cannot:

- Be conducted in wilderness areas or where they would impair the suitability of wilderness study areas for preservation for wilderness;
- Include the use of herbicides or pesticides; Involve the construction of new permanent roads or other infrastructure;
- Include sales of vegetative material that do not have hazardous fuels reduction as their primary purpose;
- Exceed 1,000 acres for mechanical hazardous fuels reduction activities; or
- Exceed 4,500 acres for hazardous fuels reduction activities using fire.

Activities carried out under the *rehabilitation categorical exemption* will take place only after a wildfire and must be completed within three years following a wildland fire. These activities cannot exceed 4,200 acres, use herbicides or pesticides, nor include the construction of new permanent roads or other infrastructure.

C. Executive Orders

1. Invasive Species Executive Order

Each Federal agency whose actions may affect the status of invasive species are required to identify their actions affecting invasive species. Dependant upon agency funding they must also work to:

- prevent the introduction of invasive species;
- monitor and control populations of such species in a cost-effective and environmentally sound manner;
- provide for restoration of native species and habitat conditions in ecosystems that have been invaded;
- develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and
- promote public education on invasive species.

Agencies may not authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species. Agencies must make public their determination that the benefits of their actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

The executive order established an Invasive Species Council to provide leadership on invasive weed issues and an advisory committee under the Federal Advisory Committee Act to provide information and advice for consideration by the Council. The Council must prepare and revise biennially an Invasive Species Management Plan. Each Federal agency whose action is required to implement measures of the plan need to either take the action recommended or provide the Council with an explanation of why the action is not feasible.

The order is intended only to improve the internal management of the executive branch and is not enforceable in court. All actions are required "to the extent practicable and permitted by law" and subject to available appropriations and budgetary constraints .

For extensive information on invasive species, see <http://www.invasivespecies.gov/> . For a copy of the current management plan, see the National Invasive Species Advisory Council's page through this web site.

2. Cooperative Conservation Executive Order

On August 26, 2004, President Bush issued an executive order "Facilitation of Cooperative Conservation" intended to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement environment- and natural resources-related laws in a manner that promotes cooperative conservation.

The executive order:

- promotes collaboration;
- encourages local participation in federal decision making (but does not necessarily discourage national interests from participating); and
- aims to protect private interests in public land and resources and public health and safety.

Agency activities implementing the order are explicitly subject to existing law as well as the availability of appropriations. Local participation in Federal decision making must be "appropriate" and "proper" and the promotion of collaboration must be in accordance with "agency missions, policies, and regulations." The private interests protected must be "legally protected" interests.

This kind of executive order is directed at supervising and guiding agencies and is not based on a statutory mandate or congressional delegation of authority. Consequently, it does not have the force of law. The order also includes standard disclaimer language which precludes enforcing the order in the courts.

D. Guidance

1. Stewardship Contract Interim Guidance

The 2003 legislation changed stewardship contracting from a limited, demonstration program into a semi-permanent authority, but the way that it is implemented in the long run could depend a great deal on the agencies' guidelines. Agencies cannot generally be forced to follow their own guidelines, but the guidelines set the tone for how the law will be implemented in the field.

The guidance document covers:

- agency roles and responsibilities;
- project goals and objectives;
- planning of projects;
- contracting mechanisms;
- selecting contractors;
- applying new contracting authorities;
- bonding;
- funding of projects;
- monitoring and collaboration; and
- reporting requirements.

The Forest Service guidelines - called interim guidance -- are part of their Renewable Resources Handbook 2409.19, Chapter 60. Or <http://www.fs.fed.us/im/directives/fsh/2409.19> (file 2004-1)

2. National Fire Plan

The National Fire Plan, developed by the Clinton administration, is a strategic tool intended to promote cooperation, communication and efficient use of resources in preventing the loss of life, damage to and loss of natural resources, loss of property and economic impacts from wildfire, as well as to plan for and implement measures to restore damaged ecosystems in the aftermath of fire events.

The NFP includes five key components:

1. Firefighting Resources addresses preparedness for fire seasons, including personnel, training, equipment, and facilities;
2. Rehabilitation and Restoration addresses long-term restoration within the burned areas;
3. Hazardous Fuel Reduction provides for development and implementation of projects to reduce the risk of fire in the wildland/urban interface;
4. Community Assistance encompasses working with communities on reducing fire risk, involving the public in NEPA for hazardous fuels reduction projects, creating jobs in restoration and fuels reduction, providing defensible space information, assisting volunteer and rural firefighters, and implementing economic action programs;

5. Accountability provides for open communication with affected communities and the general public concerning planning, implementation, evaluation and reporting carried out under the Fire Plan, as well as transparent accounting for expenditure of funds appropriated to implement the Fire Plan.

V. Discussion Questions

The following questions explore the new world of HFRA projects and SC projects and how that world differs from traditional timber sales and service contracts. Regardless of the name of the project, it should meet multiple use goals of NFMA, comply with all applicable laws, and protect or improve forest resources. In answering these questions, think of yourself as either a Forest Service specialist advising the District Ranger or as an NGO representative advising your group's director – in either case, the answers should be the same. FOR THE PURPOSES OF THIS CASE STUDY, you should not worry about evaluating the substantive impacts of the project on the National Forest. (You don't have enough data for that!)

Group 1 – SC Basics

1. Are all parts (1-4) of the proposed project suitable for a SC project? Why or why not? How could the Forest Service change the project to fit within SC constraints?
2. As a SC, how can the project differ from a standard Forest Service contract for the same work? In other words, what can the Forest Service do differently – what extra authority does the agency have – if the project is completed as a SC?
3. Which of these authorities are problematic from the NGO's point of view? Can these authorities be used and the problems be avoided?
4. What extra requirements does the Forest Service have if this is a SC?

Group 2 – HFRA Basics

1. Could all or parts (1-4) of the proposed project be a HFRA project? Why or why not?
2. What are the advantages of doing the project as a HFRA project, regardless of whether it is a SC?
3. As either a HFRA project or a SC, does the project have to comply with the current Forest Plan? What can the agency do if it would conflict? Does Norton v SUWA apply to this compliance?

Group 3 – NEPA special provisions for HFRA, SC and other fire projects

1. How does NEPA analysis for a HFRA, SC or other fire project differ from standard NEPA requirements regarding:
 - Whether an EA is needed at all?
 - Alternatives considered?
 - Public participation?
2. How would presence of the following resources affect the NEPA analysis and the project?
 - presence of known lithic scatters or historic structures in the area?
 - thinning or mechanical treatment of weeds in the roadless areas, WSAs or wilderness areas?
 - endangered species?
3. How does the potential for NGO involvement in the project differ if it is a HFRA, SC or regular Forest service project? Does the executive order on Cooperative Conservation affect NGO involvement in any of these types of projects?

Group 4 – Vegetation

1. Would Title 4 of HFRA, Insect Infestations and Related Diseases, be applicable to the proposed project? Why or why not?
2. How does the Invasive Weed executive order apply to the project? Does this differ if it is a HFRA, SC, or a traditional timber sale or service contract? What is an NGO's recourse under the Invasive Weed executive order if the Forest Service ignores it?
3. Would presence (or potential presence) of an endangered, threatened or sensitive species make a difference for creating and implementing either a HFRA or a SC project?

Group 5 – Other Pesky Laws

1. What aspects of the project might affect water quality? What law applies? What agency would you deal with or get information from regarding water quality issues? What affect does presence of an impaired stream segment have on a SC, HFRA, or traditional Forest Service project?
2. Can the District Range hold meetings and get advice from his staff without following the open meeting and reporting requirements of the Federal Advisory Committee Act?
 - Can he sponsor a coffee and donuts meeting with ranchers? NGOs? the economic development staff of the county?
 - Does it matter if he meets with these folks in separate or a mixed groups?
 - Does it matter if he meets with them more than once? Twice?
3. How can NGO involvement in the SC process differ from a standard project/sale?

Additional questions you should want to answer -- but we don't have time to discuss:

1. If you are new to an area, what documents would be helpful to obtain to understand a proposed or approved SC or HFRA project? Where would you find them? How would you request them?
2. How does the process for developing and approving a SC differ from a standard Forest Service timber sale or service project?
3. What is the intent of a SC project?
4. What happens or what is an NGOs recourse if the agency does not follow its Interim Guidance on SC?
5. Can (or How can) NGOs use SC or HFRA projects to promote land conservation? What alliances might be made to promote conservation in the proposed project?
6. How are traditional Forest Plan implementation, SC or HFRA projects appealed? Are there any additional steps that have to be taken with a SC or HFRA project to allow for later appeal? (i.e., how does it differ from a regular appeals process?)
7. How does potential presence of a threatened plant affect the project? Does a sensitive species have the same effect? Is the effect the same or different for a SC or HFRA project?
8. Can the NEPA EA completed for the early 1990s timber sale be used for a SC or HFRA project? What would you have to know to determine this?
9. In addition to the NEPA process, how and when can NGOs get involved in the SC process? In the HFRA project process?

V. How to Influence Agency Decision Makers



THE HISTORY OF THE UNITED STATES



The history of the United States is a story of growth and change. From the first settlers to the present day, the nation has evolved through various stages of development. The early years were marked by exploration and the establishment of colonies. The American Revolution led to the birth of a new nation, and the subsequent years saw the expansion of territory and the growth of industry. The Civil War was a pivotal moment in the nation's history, leading to the abolition of slavery and the strengthening of the federal government. The 20th century brought significant changes, including the rise of the United States as a world power and the civil rights movement. Today, the United States continues to shape the world and its future.

HOW TO WIN FRIENDS AND INFLUENCE PEOPLE

Dale Carnegie, 1936

Don't criticize, condemn or complain

- The only way to get the best of an argument is to avoid it.
- Show respect for the other person's opinions. Never say, "You're wrong."
- Begin in a friendly way; get the other person saying "yes, yes" immediately.
- Try honestly to see things from the other person's point of view.
- Be sympathetic with the other person's ideas and desires.

Give honest and sincere appreciation

- Begin with praise and honest appreciation.
- Let the other person save face.
- Praise the slightest improvement and praise every improvement.
- Give the other person a fine reputation to live up to.
- Make the other person happy about doing the thing you suggest.

Arouse in the other person an eager want

- Become genuinely interested in other people.
- Be a good listener. Encourage others to talk about themselves.
- Talk in terms of the other person's interests.
- Make the other person feel important-and do it sincerely.
- Let the other person do a great deal of the talking.
- Let the other person feel that the idea is his or hers.
- Throw down a challenge.
- Appeal to the nobler motives.

DALE CARNEGIE'S LESSONS APPLIED TO INFLUENCING FEDERAL AGENCY DECISION MAKERS

Don't criticize, condemn or complain

- Find common areas of agreement and start discussions off with those.
- Get to know about the competing perspectives and multiple-uses.
- Understand the laws, regulations, and policies that govern their decisions.
- Show respect for the difficulties of their decisions.
- Focus concerns on the decision, not the decision maker.
- Offer ideas for solutions instead of just complaints.
- Understand their lack of resources to do the job as well as they would like.
- Provide specific, constructive feedback instead of massive write-in campaigns.
- Be very, very cautious about going over their heads or complaining to elected officials; this is a great way to ruin a working relationship.

Give honest and sincere appreciation

- Always start and end a conversation on a positive note.
- Tell them when you think they have done something right or good.
- Complement them to others when they have done something right or good.
- Send a letter of thanks or appreciation.
- Don't blindside them in public.
- Complement the work of their staff when they deserve it.
- Write letters to the editor complementing the agency when they deserve it.

Arouse in the other person an eager want

- Get to know and see them as people, not just bureaucrats.
- Meet with them one-on-one and in private occasionally.
- Find out what "makes them tick" and try to tie into those interests.
- Offer to work cooperatively on projects on the ground.
- Offer to help build coalitions or consensus to make their job easier.
- Help get regional or national attention spotlighted on local opportunities.
- Get them involved early so they can help shape outcomes.
- Understand their incentives and disincentives; risks and rewards.

Develop Your Own Personal Strategy on How to Work With an Agency Official

- Develop a plan on how you will get to personally know the agency official. Write it down and follow through with it even if it stretches your comfort level.
- Develop coalitions of community members who are already influential with the agency official. It is even better if these community members are not a part of your organization. Coalitions of diverse interests are powerful influences.
- Identify and follow through with a plan for regular communication with the agency official. Meet them for coffee. Join the same bowling team. Ask for quarterly half hour meetings to be brought up to speed on what the agency is working on.
- Keep track of the positive feedback you have given to the agency official and find an excuse to give some if you haven't recently. Put it on your calendar! Look for ways to be positive.
- Continually expand your own knowledge and understanding of the laws, regulations, and policies that the agency official works under. Keep on top of new guidance issued from the Washington Office and the results of new appeals cases.
- Find opportunities to volunteer for the agency out on the ground, even if it is only once a year on Public Lands Day.
- If you find you simply cannot personally connect with the agency official find a partner who can and bring your partner to meetings with the agency official.
- Do all of this and check back with each other in a year and see whether you have made progress in influencing the agency official and being more effective.

THE HISTORY OF THE UNITED STATES

OF THE UNITED STATES OF AMERICA

FROM THE FIRST SETTLEMENTS TO THE PRESENT TIME

BY JAMES M. SMITH

IN TWO VOLUMES

VOLUME I

THE FIRST SETTLEMENTS

THE FIRST SETTLEMENTS

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THE FIRST SETTLEMENTS

Natural Resource Related Legal and Policy Resources For the Non-Legal Professional



**Natural Resources Law Center
University of Colorado School of Law**

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I. INTRODUCTION

The law used to be somewhat of a mystery because legal information was only available at specialty law libraries and from expensive on-line services. Today, many of the laws, regulations and federal policy documents that can help individuals understand issues are available on the internet. Some of these are easier to access than others, but if you know where to look, most everything is available. The following is a simple, step-by-step guide to finding the principal legal and policy documents related to natural resources management in the West.

What we think of as "law" and describe below includes legislation (laws or statutes passed by Congress), cases decided by the courts, and federal agency regulations or rules. Agency policies and guidelines in agency manuals and handbooks are also described for the U.S. Forest Service and Bureau of Land Management although they are not generally enforceable as law. Similarly, other executive branch documents, such as presidential executive orders and Department of Interior public land orders do not carry the same weight as laws or court decisions. This hierarchy of legal and policy guidance is illustrated in the table below. Despite their limitations, these documents indicate how public land is being managed and how public land policy is being developed.

CONSTITUTION		
Article I Legislative Branch Authorizes Congress to make laws	Article II Executive Branch Authorizes President to execute laws	Article III Judicial Branch Authorizes courts to interpret laws
LAWS (U.S. Statutes and U.S. Code)	EXECUTIVE ORDERS (Issued by President; codified in Title 3, Code of Federal Regulations (3 CFR))	LEGAL DECISIONS (Case Law)
	REGULATIONS (Issued by Federal agencies; published in Federal Register and codified in CFR)	
	ADDITIONAL GOVERNMENT- WIDE GUIDANCE	
	INTERNAL AGENCY POLICY AND PROCEDURES Department of Agriculture <ul style="list-style-type: none"> • Departmental Manual (DM) • Departmental Regulations (DR) • National Finance Center External Procedures Forest Service: <ul style="list-style-type: none"> • Issues regulations at 36 CFR • Issues internal policies and procedures in FSM and FSH • Negotiates master agreement with union 	

II. LEGISLATION

Most federal laws start out as bills introduced in a session of Congress. These bills are assigned tracking numbers depending on where they are first introduced. Senate bills originate in the Senate and are designated “S” followed by a number (for example S 507); House bills are originally introduced in the House of Representatives and are designated HR followed by a number (for example, HR 1904). There may be separate Senate and House bills dealing with an issue, or one or the other body of Congress may just use the other’s bill. If both the Senate and House pass a bill and it is either signed by the President or vetoed and re-passed by a two-thirds vote of both houses, the bill becomes a “public law” and is given a new number (for example P.L. 94-579). The first part of this number represents the number of the Congress; the second part of the number is simply a consecutive number assigned to the bill by Congress.

After laws are passed, they are organized by subject matter (Titles) and compiled into the U.S. Code.¹

IIa. SENATE AND HOUSE BILLS

Both House and Senate bills can be easily found on the internet. Two good sources are the “Thomas” website, maintained by the Library of Congress (<http://thomas.loc.gov/>) and the “GPO Access” site (<http://www.gpoaccess.gov/bills/index.html>), maintained by the Government Printing Office. These sites include the text of the bill and a lot of other information about the bill’s progress through Congress including bill sponsors, amendments, congressional testimony, committee reports, and much, much more. Both sites include bills in the current Congress (108th Congress) and at least some information on bills back through 1973 (93rd Congress). The following provides A step-by-step walk through finding a bill on the Thomas site. The GPO Access site works about the same way, but isn’t quite as “user-friendly.”

Example:
Federal Land Policy and Management Act (FLPMA) was introduced in 1974 in the 94th Congress as S 507. It became P.L. 94-579, the 579th bill passed in the 94th Congress.

FLPMA is in Title 43 of the U.S. Code, from section 1701 to 1785 (43 USC sections 1701 to 1785)

To start searching for a bill: Click on the Thomas address (<http://thomas.loc.gov/>) to get to the Thomas homepage.

If you know the bill number: If you know the bill number, you can directly access the bill. Start at the Thomas homepage.

If it is a current bill (108th Congress): Type the bill number (for example, HR 1904) in the space provided (BILL NUMBER) at the top of the web site; click on SEARCH.

If it is a bill from a previous Congress: Click on BILL SUMMARY & STATUS or BILL TEXT in the LEGISLATION column; next click on the number of the Congress in which the bill was introduced or passed; next type the bill number in the space provided (called either BILL NUMBER or BILL, AMENDMENT OR PUBLIC LAW NUMBER) at the top of the web page; click on SEARCH.

¹ <http://thomas.loc.gov/home/lawsmade.bysec/publication.html> How laws are made § XIX. Publication

If you want to search by topic: Start at the Thomas homepage.

If it is a current bill (108th Congress): Type a key word or phrase in the space provided (WORD/PHRASE) at the top of the web site; click on SEARCH

If it is a bill from a previous Congress: Click on BILL SUMMARY & STATUS or BILL TEXT in the LEGISLATION column; next click on the number of the Congress in which the bill was introduced or passed; next type a key word or phrase in the space provided (WORD/PHRASE) near the top of the web page; click on SEARCH.

If you want to just browse from a list of bills: Start at the Thomas homepage; click on BILL SUMMARY & STATUS or BILL TEXT in the LEGISLATION column; next click on the number of the Congress in which the bill was introduced or passed; next click on LEGISLATION; next click on whatever category of document you are interested in viewing (for example HOUSE BILLS). You will get a complete consecutive list of House Bills with a short description, list of sponsors, cosponsors and committees, and the latest action taken on the bill. Click on the bill number to get more complete information on the bill.

Reading a bill or finding a specific part of it: Once you get to the web page for a particular bill, you will have the choice of many types of information including the text of the actual bill. If you are interested in only one very small part of a large bill you can search for particular language to help you find that part. This is an especially useful feature when Congress buries riders in appropriation bills. An example of this was the stewardship contracting bill – three or four pages buried in a several hundred page appropriations bill.

To read the bill: click on TEXT OF LEGISLATION near the bottom of the page; next click on the version you would like to read – there are usually several choices depending on what action Congress has taken on the bill. The most up-to-date version is the last one listed.

To find a specific part of the bill: If the bill is short, the text will all appear in one document on the screen and you can search for a specific part. If the bill has several sections and you don't know which section you want, click on PRINTER FRIENDLY DISPLAY near the top right of the screen to give you an easily searchable version of the bill. To search for specific language in a bill, press the Ctrl+F keys (at the same time) to get a search screen; type a key word or phrase into the FIND TEXT box; click on FIND. This search will take you to the first use of your search words in the document; click FIND again to get to the next occurrence of your words.

IIb. PUBLIC LAWS

The best place to search for public laws is Thomas (<http://thomas.loc.gov/>). Public laws from the 93rd to the 108th Congress are currently available. What you will get on the Thomas site is the law as it was originally passed – essentially the final version of the House or Senate bill. The version you get will not include any subsequent amendments to that law. For some of the earlier years, Thomas may only have a summary of the law rather than the full text. For copies of laws that have been amended through the years, you'll have to go to some specialty sites (like the web site of the agency that implements the law) or to the U.S. Code (see below).

If you know the Public Law number: If the law was passed as far back as 1973 and you know the public law number, you can directly access the law -- as it was first passed. Start at the Thomas homepage; click on PUBLIC LAWS in the LEGISLATION column; next click on the number of the Congress in which the bill was introduced or passed (the first part of the public law number); next click on the range of numbers in which your public law number fits; click on SEARCH. You will be given a consecutive list of the laws passed in that Congress. Scroll down the list to find the number of your law; next click on the bill number right next to the number of your public law. Next click on TEXT OF LEGISLATION at the bottom; next click on the last version of the bill that is listed -- this is the version that became law.

If you want to search by topic: Start at the Thomas homepage; click on BILL SUMMARY & STATUS in the LEGISLATION column; next click on the number of the Congress in which the law was passed -- you may have to try several different Congresses if you don't know the year it became law. Next type a key word or phrase in the space provided (WORD/PHRASE) near the top of the web page AND scroll down to the section of the page called STAGE IN LEGISLATIVE PROCESS; in the pulldown menu, scroll down to PUBLIC LAW and click on it; next click on SEARCH.

If you want a public law passed before 1973: Older public laws are not as easily accessible on-line. Some of them are available through specialty publications or agency web sites. For example, Wilderness.net is a web site sponsored by the Wilderness Institute at the University of Montana College of Forestry and Conservation, the Arthur Carhart National Wilderness Training Center, and the Aldo Leopold Wilderness Research Institute. This site includes all of the laws related to wilderness: <http://www.wilderness.net/index.cfm?fuse=NWPS&sec=legisPolicy> Click on PUBLIC LAW LIBRARY for laws designating individual wilderness areas.

IIc. U.S. CODE

Once a law is passed, it is printed in the U.S. Code (USC) -- the official compilation of federal statutes (laws). In the USC, statutes are organized, indexed and published in "titles." Each title covers a specific subject matter. The purpose of the USC is to present laws in a concise and usable form. The USC is updated when a law is amended or repealed. The current version of the USC includes only laws that are currently in effect. Unfortunately -- and this can be a frustrating problem -- the official U.S. Code is not updated annually. For example, the most recent changes to the stewardship contracting legislation do not appear in the on-line USC. The most recent official version of the USC is from 2000. Some of the on-line services described here have unofficial updates from as recently as 2002, but many of the newest changes in law are not available through these free, on-line services. For the most up-to-date version, you have to look at the U.S. Code Annotated (USCA) at a law library or through an expensive, private on-line service.

Example:
Public Land Law
includes law related to
FLPMA and is located in
Title 43.

Conservation includes
laws related to the Park
Service and the National
Forest Management Act
and is located in Title 16.

Several web sites provide free access to the USC. One of the easiest to use is the Cornell University Legal Information Institute site <http://www.law.cornell.edu/federal/> You can access specific sections of a law searching by code title and section (for example 43

USC 1701), by the name of the law ("Federal Land Policy and Management Act"), and through a key word search ("advisory committee").

To start searching for a statute: Click on the Cornell site address <http://www.law.cornell.edu/federal/> ; then click on U.S. CODE under LEGISLATIVE BRANCH to get the USC homepage.

If you know the USC number: If you know the USC number, you can access it directly. Start at the USC homepage; type the title and section in the space provided (Title and Section); click on GO TO THE TITLE AND SECTION. From here you can read additional sections of the same law by clicking NEXT; you can go back one section by clicking PREV.

If you know the public law name: You can find many statutes of interest if you know the public law name. Start at the USC homepage; click on TABLE OF POPULAR NAMES in the right hand column; next click on the PART number corresponding to the alphabetical listing of titles (for example, Part 19 for the National Environmental Policy Act); next scroll down to National Environmental Policy Act and click on the name. This process gives you the first section (42 USC 4321) of NEPA; click on NEXT to get more of NEPA as it has been incorporated into the U.S. Code.

If you want to just browse in a list of subject areas: If you are not interested in a particular section, you can look at a list of law topics. Start at the USC homepage; scroll down to TABLE OF CONTENTS (BY-TITLE LISTING) and click on the title of interest; next click on the chapter of interest; next click on the Subchapter or Section of interest.

If you want to search by topic: Topic or key word searches in the USC can be very frustrating. The search function on the Cornell site will not search for phrases -- even if you put them in quotation marks -- and includes variations of your key words (for example contract, contracting, and contractor if you search for "stewardship contracting"), so your search result might include a lot of statutes in addition to the one you want. Start at the Thomas homepage.

To search in the entire USC: Click on SEARCH ENGINE in the right column; Next type your key words separated by "AND" (for example, advisory AND council) into the space provided (FIND INFORMATION ON); Next click on USE BOOLEAN OPERATORS so that the search only gives you code sections that include both of your key words; Click on SEARCH. This search will give you 439 separate code sections which include both "advisory" and "council." But don't despair!

Limit your search as much as possible by first choosing a particular title: Scroll down to TABLE OF CONTENTS (BY-TITLE LISTING) and click on SEARCH next to the title of interest (for example, next to title 43). Follow the rest of the instructions for conducting a search. This search will give you only 13 separate code sections including both advisory and council. If you don't use the AND and click on the USE BOOLEAN OPERATORS box, you will get 35 code sections that include either "advisory" or "council."

USC Titles of particular interest:

Title 16: Conservation
Title 30: Mineral Lands and Mining
Title 43: Public Lands

Other internet sites for the U.S. Code: The Cornell web site works for most searches in the U.S. Code, but it isn't perfect. For unknown reasons, other sites provide better results for some topic or public law searches. On these sites, it can help to limit your search by putting a phrase in quotation marks. Other web sites for searching the U.S. Code include

- GPO Access site, <http://www.gpoaccess.gov/uscode/index.html>
- U.S. House of Representatives web site, <http://uscode.house.gov/search/criteria.php>
- FindLaw for Legal Professionals web site <http://www.findlaw.com/casecode/uscodes/>

IIId. LINKS TO SELECTED FEDERAL LAWS

APA: Administrative Procedure Act

- Text online with links to each section: <http://www.oalj.dol.gov/libapa.htm#apa>
- Other related links: <http://laws.fws.gov/lawsdigest/admin.html> - ADPRO

ARPA: Archeological Resources Protection Act

- Text online with links to each section: <http://www2.cr.nps.gov/laws/archprotect.htm>
- PDF: http://www.cr.nps.gov/local-law/FHPL_ArchRsrcsProt.pdf

CAA: Clean Air Act

- PDF: <http://ocw.mit.edu/NR/rdonlyres/Political-Science/17-32Environmental-Politics-and-PolicySpring2003/B799F75F-D1D4-4974-A9C8-A418B1E6BC02/0/cleanairact.pdf>
- Other related links: <http://www.redlodgeclearinghouse.org/legislation/cleanair.html>

CWA: Clean Water Act

- <http://www.epa.gov/region5/water/cwa.htm>: summary of CWA and links to download codified sections

ESA: Endangered Species Act

- <http://endangered.fws.gov/esa.html> - contains both downloadable pdfs and organized listing of the ESA that is easily navigable on the website
- Other related links available: <http://www.redlodgeclearinghouse.org/legislation/esa6.html>

FACA: Federal Advisory Committee Act

- Text online with links to each section:
http://www.archives.gov/federal_register/public_laws/acts.html (scroll down on website for information)
- Other related links available:
<http://www.redlodgeclearinghouse.org/legislation/faca5.html>

FLPMA: The Federal Land Policy and Management Act

- PDF: <http://www.blm.gov/flpma/FLPMA.pdf>
- Stewardship contracting web site
http://www.blm.gov/nhp/spotlight/forest_initiative/stewardship_contracting/

FOIA: Freedom of Information Act

- PDF and text: <http://www.sba.gov/foia/textonly/act.html>
- Text online:
<http://www.hqmc.usmc.mil/foia/foiaweb.nsf/0/b0482727a3937e24852567c10058f14c?OpenDocument>

GML: General Mining Law of 1872

- Text online: <http://www.greatbasinminewatch.org/generalmininglaw.html>;
<http://www4.law.cornell.edu/uscode/30/ch2.html>;

HFRA: Healthy Forest Restoration Act

- Original 2003 Healthy Forest Restoration Act :
<http://www.theorator.com/bills108/hr1904.html>
- Healthy Forest Initiative and Healthy Forests Restoration Act Interim Field Guide
<http://www.fs.fed.us/projects/hfi/field-guide/>
- Other related sites:
<http://www.redlodgeclearinghouse.org/legislation/healthyforestsrestorationact.html>

MLA: Mineral Leasing Act

- PDF: http://www.nm.blm.gov/rfo/forms/aaform_Mineral_Leasing_Act.pdf;
http://www.ca.blm.gov/pdfs/pa_pdfs/minerals_pdfs/1920act/pages-i_19b.pdf

MUSYA: Multiple-Use Sustained Yield Act

- PDF: <http://www.fs.fed.us/emc/nfma/includes/musya60.pdf>
- Other related links available:
<http://www.redlodgeclearinghouse.org/legislation/nfm7.html>

NEPA: National Environmental Policy Act

- Text online: <http://ceq.eh.doe.gov/nepa/regs/nepa/nepaeqia.htm>
- Other related links available:
<http://www.redlodgeclearinghouse.org/legislation/nepa6.html>

NFMA: National Forest Management Act

- PDF: <http://www.fwp.state.mt.us/wildrefmanual/SectionI/SectionF.pdf>
- Stewardship Contracting Website:
<http://www.fs.fed.us/forestmanagement/projects/stewardship/handbook/index.shtml>
- Text Online:
<http://www.redlodgeclearinghouse.org/legislation/nationalforestmanagement.html>

NHPA: National Historic Preservation Act

- Text online: <http://www2.cr.nps.gov/laws/NHPA1966.htm>
- PDF: <http://www2.cr.nps.gov/laws/NHPA.pdf>

NPSOA: National Park Service Organic Act

- Text online: <http://www.nps.gov/legacy/organic-act.htm>;
<http://www.wilderness.net/index.cfm?fuse=NWPS&sec=legisorganic>

RS2477: Right of Way Claims

- R.S. 2477 Memo of Understanding online text: <http://www.doi.gov/news/mou.htm>
- R.S. 2477 fact sheet: <http://www.doi.gov/news/moutalkingpoints.htm>

WA: Wilderness Act

- Text online: <http://www.wilderness.net/index.cfm?fuse=NWPS&sec=legisAct>
- Original 1964 Wilderness Act in PDF:
<http://planning.nps.gov/wilderness/document/WildernessAct.pdf>;
http://www.cfr.washington.edu/classes/common/comweb/Case%20Studies/usa/yellowstone/yellowstone/Project1/Yellowstone_Docs/Wilderness%20Act%20of%201964.pdf;
- PDF containing annotations to codified sections:
<http://www.fsa.usda.gov/dafp/cepd/epb/statutes/WildernessAct.pdf>

WSRA: Wild and Scenic Rivers Act

- Text of the act: <http://www.nps.gov/rivers/wsract.html>;
- Variety of materials available related to the act:
<http://www.nps.gov/rivers/publications.html>

WHBA: Wild Horse and Burro Act

- Text of the act: <http://www.wildhorseandburro.blm.gov/92-195.htm>
- BLM Protection, Management, and Control of Wild Horses:
<http://www.wy.blm.gov/wildhorses/4700regs.htm>

III. PRESIDENTIAL EXECUTIVE ORDERS

Executive Orders issued by the President are usually intended to direct or guide government agencies and officials. There is no law defining the term. Some orders are binding, others are not. When issued pursuant to a statutory mandate or congressional delegation, these orders are binding as law. Otherwise, they serve more as a general guide to the executive branch. Congress, however, has only specifically reversed an Executive Order twice: when President Truman's placed all steel mills under Federal control and when President Clinton ordered that no Federal contracts could go to companies employing "scabs." For over a hundred years, Executive Orders were quietly issued and often lost. It was not until 1907 that the State Department began numbering Executive Orders, starting with President Lincoln's Emancipation Proclamation of 1862. Many orders, however, remained unnumbered. Today, an order from 1789 to 1941 may be numbered or unnumbered. Since 1935 and the Federal Register Act, all Executive Orders must be filed with the Office of the Federal Register. Since 1936, all orders have been published in the Federal Register.

For a useful background on Executive orders, see *Presidential Directives: Background and Overview* by the Congressional Research Service:
<http://www.fas.org/irp/crs/98-611.pdf>

The online Federal Register archives contain information on Executive Orders dating from 1937. These are organized by administration and year of signature.

- *For orders signed before the Clinton administration*, the information on these orders is limited to the number, date of signing, Federal Register volume, number and issue date, title, amendments, and current status. The listings are informational and not legal authority.
- *For orders signed during and after the Clinton administration*, a link is available to a PDF format file of the text of the order as it appeared in the Federal Register. To read the file, you must download a free copy of Adobe Acrobat Reader.
- *For the Clinton and George W. Bush administrations*, there is a useful subject index as well.

Starting at http://www.archives.gov/federal_register/executive_orders/executive_orders.html, you can click on the link either to DISPOSITION TABLES (of the orders signed since 1936) or search all the orders passed since this time. The Federal Register archive site is of limited utility for older orders as it provides very limited information on each order.

The full text for Executive Orders starting with order 7316 appears in the sequential editions of Title 3 of the Code of Federal Regulations (CFR). Unfortunately, only Executive Orders signed after January 1, 1997 are currently in the online CFR database. To search Title 3, first go to <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>. Then click on the year you are interested in to go to a search window. Finding and ordering a specific Executive Order from the Code of Federal Regulations may seem like a daunting task. It can also be an expensive one. These books must be ordered from the GPO; for ordering information, see: <http://bookstore.gpo.gov/index.html>.²

Various agencies and organizations keep links to relevant executive orders. For example:

- U.S. Fish and Wildlife Service maintains a list of pertinent orders here: <http://laws.fws.gov/lawsdigest/eoindex.html#11375>.
- Environmental Protection Agency maintains a list and full text of pertinent environmental Executive Orders here: <http://laws.fws.gov/lawsdigest/eoindex.html#11375>
- Center for Disease Control (CDC) has a list of orders pertinent to their work here: <http://www.cdc.gov/omh/AboutUs/executive.htm>.

IV. AGENCY REGULATIONS

Congress gives agencies power to make rules to carry out the purposes of its legislation. These rules are called regulations and they are enforceable as law. Sometimes the statutes themselves specify that the agency will make rules and regulations. Agency regulations are supposed to carry out the intent of the law, to guide the activity of the agency and those regulated by the agency, and to ensure uniform application of the law. Regulations are created through a public

² Customer service can be reached at 1-866-512-1800. It is considerably easier to obtain older orders from a Federal Repository Library. A list of these can be found at <http://www.gpoaccess.gov/libraries.html>

process that includes publishing proposed and final regulations in the Federal Register, which is the federal government's official daily "newspaper." After a regulation is finalized, it is published in the Code of Federal Regulations (CFR).

IVa. CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations (CFR) is a collection of agency regulations that were published as final rules in the Federal Register. When a proposed or final rule is published in the Federal Register, it indicates the title and section of the CFR that the new rule will create or modify. The CFR is organized into fifty titles, and each title covers a specific subject.

New editions of the CFR are published each year. Titles 1-16 are published on January 1; Titles 17-27 are published on April 1; Titles 28-41 are published on July 1; and Titles 42-50 are published on October 1. These publication dates are important because they also indicate about when the on-line CFR version is updated. For example, if a new rule for Title 43 is published in the Federal Register in January, it won't appear in the on-line CFR until October.

CFR Titles of particular interest:

Title 30: Mineral Resources
Title 36: Parks, Forest and Public Proper
Title 40: Protection of Environment
Title 43: Public Lands: Interior
Title 50: Wildlife and Fisheries

The GPO Access web site (<http://www.gpoaccess.gov>) and the Cornell web site (<http://www.law.cornell.edu/federal/>) are both good places to search in the CFR by title and section number or by topic.

To start searching for a CFR section: Click on the GPO Access web site address <http://www.gpoaccess.gov>; next click on CODE OF FEDERAL REGULATIONS under EXECUTIVE RESOURCES to get to the CFR homepage.

If you know the title and section of the CFR: If you are looking for a particular section of the CFR (for example 43 CFR 1600), click on BROWSE AND/OR SEARCH THE CFR under 1996 THROUGH 2003; next scroll down to title 43; click on the date of the most recent CFR update if you are looking for the current regulation; next click on the range of parts that includes 1600 (1000-9999); next click on the part you are interested in (1600); next click on TXT or PDF of the subsection of your choice.

If you want to search by topic: Type key words or phrases (in quotation marks, for example "mineral leasing") in the space provided (QUICK SEARCH) under MOST CURRENT DATA (2003-2002); next click on SUBMIT; click on TEXT, PDF or SUMMARY for the section of your choice.

IVb. FEDERAL REGISTER

The Federal Register is published five days a week and is organized into yearly volumes. For example, Volume 68 contains 2003 documents. You can search for documents in the Federal Register by volume and page number, by date, or by topic. Documents you locate on-line in the Federal Register can be useful because they often have direct links to other related documents that may be useful. The GPO Access web site <http://www.gpoaccess.gov> provides easy access to Federal Register documents.

To start searching for a Federal Register document: Click on the GPO Access web site address <http://www.gpoaccess.gov> ; Next click on FEDERAL REGISTER under EXECUTIVE RESOURCES to get to the Federal Register homepage.

If you know the year and page number: If you have seen a Federal Register document cited (68 FR 44597), you have the volume (68) and page number (44597). Start on the Federal Register homepage.

If the document was published in the current year, you can use a “quick search.” Type “page 44597” in the space provided (QUICK SEARCH); next click on SUBMIT; Click on HTML or PDF for the document of your choice.

If the document was published in a previous year between 1994 and the current year: Click on SEARCH: SIMPLE under 1994 (VOLUME 59) THROUGH 2003 (VOLUME 68); Next click on the volume and year of your publication (for example Volume 66 (2001)) AND type the page number (for example “page 44597”) in the SEARCH space provided; Next click on SUBMIT; Click on HTML or PDF for the document of your choice.

If you know the date that the document was published and the agency that published it: Start on the Federal Register homepage; click on BROWSE THE TABLE OF CONTENTS FROM BACK ISSUES under 1994 (VOLUME 59) THROUGH 2003 (VOLUME 68); next use the drop-down menu to choose the year of your choice (for example 2003); next click on GO; next click on the date of your document (for example July 29, 2003). Your search will give a list of all the documents published that day in the Federal Register; they will be organized by agency (for example Forest Service or Land Management Bureau (BLM)); scroll down to the agency of your choice; click on TEXT, PDF or SUMMARY for the document of your choice.

If you want to search by topic: Start on the Federal Register homepage. If the document was published in the current year, you can use a “quick search” to search by topic. Type key words or phrases (in quotation marks, for example “stewardship contracting”) in the space provided (QUICK SEARCH); next click on SUBMIT; click on HTML, PDF or SUMMARY for the document of your choice.

If the document was published in a previous year between 1994 and the current year: Click on SEARCH: ADVANCED under 1994 (VOLUME 59) THROUGH 2003 (VOLUME 68). Next, select one or more year by clicking on the box(es) next to the year under SELECT A VOLUME(S). Next, type key words or phrases (in quotation marks, for example “stewardship contracting”) in the space provided (SEARCH); next click on SUBMIT; click on HTML, PDF or SUMMARY for the document of your choice.

If you want to browse by agency: The National Archives and Records Administration (NARA) has an on-line index to Federal Registers from 1994 to the present. The index is organized by federal agency. Within each agency, the index is organized by three categories: “rules,” “proposed rules,” and “notices.” Within these categories, documents are organized by topic. This website does not provide a direct link to Federal Register documents, but provides the page number that can be plugged into the “If you know the year and page number” search.

To start browsing in the index, go to the NARA Federal Register homepage http://www.archives.gov/federal_register/index.html ; click on THE FEDERAL REGISTER under RESOURCES; next click on INDEX & TABLE OF CONTENTS.

If you want to browse in the current year: Click on the letter or range of letters that includes your agency of interest (for example F for Forest Service); next scroll down to Forest Service and look for documents of interest.

If you want to browse in a previous year: Click on ANNUAL INDEXES SINCE 1994; next scroll down to the year of interest (for example, 2002) AND click on the letter or range of letters that includes your agency of interest (for example F for Forest Service); Next scroll down (way down!) to Forest Service and look for documents of interest. For example, under "Proposed rules" you will find "National Forest System lands; projects and activities; notice, comment, and appeal procedures, 77451"-- the Forest's Service's proposal to change its appeals procedure. Under "Notices" and "Grants and cooperative agreements," you will find "Forest products demonstration projects; small-diameter material and low-valued trees, uses, 39951" -- a request for proposals to develop uses for small diameter trees.

V. OTHER AGENCY GUIDANCE

Most agencies have internal handbooks, manuals or other documents (directives, memoranda, bulletins) that contain detailed guidelines for conducting agency business. Some of these are published in the Federal Register (see directions above for finding these by volume and page number, by date, and by topic.) For many of these documents, the agencies' web sites are the best places to look.

Va. U.S. FOREST SERVICE

The web site for many U.S. Forest Service documents is <http://www.fs.fed.us/im/directives/>. The Forest Service's manuals and handbooks include the agency's policies, practices, and procedures. Both the manuals and handbooks provide national level, regional level and forest specific guidance. New or revised continuing direction is issued by amendment; short-term direction is issued by interim directive; and direction supplementing that issued by an external or higher level is issued by supplement.

- The Forest Service Manual contains legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by Forest Service employees.
- Forest Service Handbooks are the principal source of specialized guidance and instruction for carrying out the direction issued in the Forest Service Manual.

For an overview of Forest Service directives: go to the Forest Service Directive homepage and click on OVERVIEW.

To start searching for Forest Service guidance: Click on <http://www.fs.fed.us/im/directives/> for the Forest Service Directives homepage.

To browse by topic in an index: Start on the Forest Service Directives homepage. Both Forest Service manuals and handbook are organized into (1) SERVICE-WIDE ISSUANCE (national level guidance), and (2) FIELD ISSUANCE (regional or forest-specific guidance). To start browsing, click on one of these or on ALL ISSUANCES; next click on one of eight general topics:

- ORGANIZATION AND MANAGEMENT
- NATIONAL FOREST RESOURCE MANAGEMENT
- STATE AND PRIVATE FORESTRY
- RESEARCH
- PROTECTION AND DEVELOPMENT
- MANAGEMENT SERVICES
- ENGINEERING
- INTERNATIONAL FORESTRY

Continue to click on more and more specific topics in each index screen that appears.

To search by topic: Start on the Forest Service Directives homepage; Type key words or phrases into the space provided (ENTER SEARCH WORD(S)) (for example, "categorical exclusions"); click on SEARCH. This search produces a list of 29 documents that includes the phrase "categorical exclusion." Click on the title of the document of choice. To find your key words in the document, press the Ctrl+F keys (at the same time) to get a search screen; Type your key words, or any other words, into the FIND TEXT box; Click on FIND. This search will take you to the first use of your key words in the document; Click FIND again to get to the next occurrence of your words.

Vb. BUREAU OF LAND MANAGEMENT (BLM)

The BLM's manuals provide detailed information to agency employees on how to implement federal legislation. Handbooks elaborate in more detail on the procedures and information provided in manuals. Access to BLM manuals and handbooks are provided through BLM's Freedom of Information Act (FOIA) homepage (<http://www.blm.gov/nhp/efoia/>).

For an overview of BLM directives: Click on <http://www.blm.gov/nhp/efoia/> for BLM's FOIA homepage; next click on CLICK HERE FOR DETAILED DEFINITIONS under BLM'S POLICY AND INTERPRETATIONS NOT PUBLISHED IN THE FEDERAL REGISTER

To start searching for BLM guidance: Click on <http://www.blm.gov/nhp/efoia/> for BLM's FOIA homepage; next click on HEADQUARTERS/WO under ELECTRONIC READING ROOMS to get to the BLM Directives homepage.

To browse a manual or handbook by topic in an index: Start on the BLM Directives homepage; click on either MANUAL or HANDBOOK; then click on the MANUAL SECTION or HANDBOOK SECTION of interest (for example, M-1601 Land Use Planning or H-1601-1 Land Use Planning Handbook).

For an Instruction Memoranda or Information Bulletin: Start on the BLM Directives homepage; next, click on HEADQUARTERS/WO in the center of the page. Documents are organized into Instruction Memoranda and Information Bulletins from either the Washington BLM office or the Director's Office. Coverage begins in 1998. Currently, these links are not searchable, which can make it difficult to find a particular document. Knowing the approximate time the directive was issued is helpful.

Other BLM documents: A useful place to start to get an idea of the scope of available publications is at the library of the Department of the Interior: <http://library.doi.gov/doiinfo.html#BLMPubs>. Starting at the FOIA homepage also provides links to frequently requested BLM documents such as [Data Quality Guidelines](#). This page also provides information on how to [file a FOIA Request with the BLM](#).

VI. CASE LAW

Any legal research requires using and understanding court cases. While statutes and other materials contain "the law," the courts are charged with interpreting the law. Court cases are a useful way to see how a law has been interpreted, and are important sources of "precedent." Once a court decides that a law is interpreted a certain way, other courts will tend follow this interpretation. This allows individuals, agencies, and companies to rely on a court decision and to shape their affairs around a stable body of decisions. "Lower" courts are required to follow a decision on a particular issue by a "higher" court. The U.S. Supreme Court is our highest legal authority, and each decision made by this body binds all other courts to follow their interpretation of a law. The Supreme Court, however, does not hear cases dealing with every possible issue, and other high courts such as the U.S. Court of Appeals and the supreme courts of each state are also quite important.

In recent years, more and more court decisions have made their way into free internet databases. A useful rule of thumb is that the more recent decision, the more likely it will be available for free on the internet. Coverage is wildly inconsistent and depends on each particular court. Below are some useful sites for finding case law. Remember, however, that nearly all cases are available in print for free from public law libraries. Libraries are still often the reference source of choice for lawyers and researchers on a tight budget.

Via. SUPREME COURT CASES

THE U.S. SUPREME COURT

The U.S. Supreme Court web page at www.supremecourtus.gov has slip opinions posted from 2001 until the present. The "slip" opinion is the second version of an opinion. It contains revisions and corrections not appearing in the "bench" opinion issued at the decision itself. The Court reminds users that the opinions posted are not exactly "official" because they are replaced by the U.S. Reports bound volume issued approximately one year after the decision. If so, what are they good for? These slip opinions appear on the Supreme Court website within hours of the decision – the next best thing besides actually hearing the decision yourself. If you are looking for resolution on a specific issue and are waiting for a decision, this is a good site to watch.

To find recent decisions: Go to the home page of the U.S. Supreme Court (www.supremecourtus.gov) and click on the OPTIONS link. The term opinions of the court are organized by year. There is some other useful information here, including lists of counsel and precise dates for older decisions dating back to the West v. Barnes case of August 3, 1791.

FINDLAW

Findlaw (www.findlaw.com) is a commercial site that has fast become a standard source for free and low cost research on case law. Findlaw has a searchable database of Supreme Court decisions from 1893. According to Findlaw, this service is "free and will remain free." This makes it an extremely useful resource.

To use the Findlaw database: At the top of the home page, click on the link for cases and codes. You will be at <http://www.findlaw.com/casecode/> with a list of the material available at Findlaw. US SUPREME COURT - OPINIONS & WEB SITE is the first link under "Case Law." It will take you to a searchable database of cases from 1893. It is only necessary to know a little about the case you are searching for – one party name, the year, or a particular word you are looking for in the text will bring back relevant results.

CORNELL UNIVERSITY LAW SCHOOL

The Cornell University Law School carries all Supreme Court decisions from 1990 to the present.

To use the database: Start at <http://www.law.cornell.edu/>. There will be a link on the left side to COURT OPINIONS. Running the mouse over this link will reveal a sub-link to SUPREME COURT OPINIONS. At <http://supct.law.cornell.edu/supct/> you will find a menu bar along the left side to choose from CASES PENDING, ORAL ARGUMENT, CASES ARGUED, SUPREME COURT CALENDAR, and the all important ARCHIVE OF DECISIONS. Some of these links head back to the official U.S. Supreme Court web site.

FEDWORLD

The United States Department of Commerce maintains a site called "Fedworld" <http://www.fedworld.gov/> whose mission is simply to make information from the Federal Government more accessible. This site also happens to maintain the complete text for every Supreme Court decision from 1937-1975, which translates to volumes 300 through 422 of U.S. Reports.

To use Fedworld: Click on the SUPREME COURT link towards the bottom of the home page. This will take you to <http://www.fedworld.gov/supcourt/index.htm>. From here, you can search for either a party name or perform a full text search for a particular word. The site warns that this can take quite a bit of time, and those with a slower internet connection may have some trouble searching.

Vib. OTHER FEDERAL CASES

Many decisions by the Federal District Courts and the Federal Court of Appeals are available online. Unfortunately, this can be a hit or miss process and can depend on the particular court and how far back you are looking.

Federal Courts Finder

A helpful place to start for the somewhat confusing process of finding free online Federal Court decisions is the Emory University School of Law Federal Courts Finder. At <http://www.law.emory.edu/FEDCTS/>, you find a color-coded map of the United States. From here, you can click on a state or part of the country to find federal courts for that area.

How to use the finder: There are different resources for each court, and the Federal Courts Finder is a good way to find both a court and what is available from the court website.

Example: To find South Utah Wilderness Alliance v. Norton as originally decided by the Tenth Circuit Court of Appeals (this case was then appealed to the Supreme Court, see above), start at the map provided at the Emory Law School Federal Courts page. Click on the state of Utah. This shows the relevant federal courts for Utah. Next,

clicking on the link TENTH CIRCUIT COURT OF APPEALS brings you to the Court web site. At this page, there are a few different ways to search for this case: by party, docket number, filing date, and by date the opinion was added to the web site. Tenth Circuit started putting all decisions online October 1, 1997, and this case falls after this date. Since at least one party is known, click on PLAINTIFF/DEFENDANT CASE NAME. This reveals a long list of cases. Scroll down to the case under "S." There, we find the docket number, filing date, and a link to the text of the opinion. Note that this case can also be located by scrolling down to "N" for "Norton." While this may not be the easiest or most useful way to research case law, starting with homepages for the various federal courts is a useful way to start searching and to gain information about court rules, procedures – and, yes, even cases.

Example: *Southern Utah Wilderness Alliance v. Norton*

- Start at the Findlaw Supreme Court search page: <http://www.findlaw.com/casecode/supreme.html>.
- You can search by year, by citation, by party name search, or by searching the whole text of the online court opinions.
- Since you already know both parties, enter one of the parties in this text box. Try to judge what name might be "rarer:" will produce fewer documents. Searching by "Southern Utah Wilderness Alliance produces only one case from 2004 – this is the relevant decision. Searching by "Norton," on the other hand, results in fifteen separate decisions dating back to 1915.
- To find the Tenth Circuit decision on *Southern Utah Wilderness Alliance v. Norton* that was appealed to the Supreme Court, see below.

Findlaw

Findlaw is useful for finding cases from the various federal courts, but coverage depends on what the each particular Circuit Court publishes online. For a description of Findlaw go to: www.findlaw.com.

Example: Start at the Findlaw CASES AND CODES page <http://www.findlaw.com/casecode/index.html> The U.S. Court of Appeals are listed underneath the Supreme Court links. To find a case in the 5th Circuit, click on the tab for this court. Here (<http://www.findlaw.com/casecode/courts/5th.html>) you will find that the Findlaw database for these cases is comprehensive from 1997 to the present. This database is searchable by year, docket number, case title, and full text. Findlaw asserts "this is a free service that will remain free." By contrast, the database for the 10th Circuit provides cases back to November 1995. Each Circuit is slightly different in coverage. Unfortunately, Findlaw does not provide any more than links to the various District Court home pages.

Cornell University Law School

The Legal Information Institute of the Cornell University Law School (described above) provides links to Federal Circuit Court materials.

Example: Start at the web page: <http://www.law.cornell.edu/federal/opinions.html>. There will be a list of U.S. Court of Appeals down the page. As at Findlaw, coverage depends on the Circuit. For example, clicking on the U.S. Court of Appeals (4th Circuit) link provides a web page organized by the Emory University School of Law. Cases from January 1995 to July 2001 are available. These are searchable by date, through an alphabetical listing, or by keyword. A link is provided to the 4th Circuit web site that provides access to newer cases. By contrast, clicking on the link for U.S. Court of Appeals (7th Circuit) reveals a somewhat stark gray page with a few text boxes or searching judicial opinions. Cases can be located through case number or party name only. A useful function here (<http://www.ca7.uscourts.gov/op3.fwx>) is a box to get decisions from only the past day, week or month. This can be a useful tool for those waiting for a decision.

VII. ADMINISTRATIVE DECISIONS

VIIa. INTERIOR BOARD OF LAND APPEALS

The Interior Board of Land Appeals (IBLA) is part of the Office of Hearings and Appeals, Office of the Secretary of the Interior, and is specifically authorized to review decisions of departmental agencies and departmental administrative law judges. The IBLA was created in 1970, and replaced the "A" decisions (also called "Solicitor's Opinions) produced by the Department of the Interior (DOI).

In this capacity, the IBLA makes important decisions on resources law and operation of the agencies that govern public lands. Appeals from the Board are heard by the Federal District Court in the state where the dispute arose. Appeals from the U.S. District Court then head to the U.S. Court of Appeals and may eventually be appealed to the U.S. Supreme Court.

Example: Coalbed Methane

In 2002, the IBLA considered whether the BLM's review of resources in the Powder River Basin sufficiently addressed the impacts of coalbed-methane development. The IBLA said "no." Eventually, the Tenth Circuit Court of Appeals decided that the IBLA decision was correct and ordered the BLM to produce studies to comply with the National Environmental Policy Act (NEPA.)

To see the 10th Circuit's decision on *Pennaco Energy, Inc. v. D.O.I.*, see <http://pacer.ca10.uscourts.gov>. For access to the case text an account on PACER (Public Access to Court Electronic Records) is required and the service costs seven cents a page for access.

Over the years, important decisions from the Department have been published under various names and with varying consistency:

- From 1881 to 1929, these decisions were called "Land Decisions" and dealt mainly with the General Land Office. These decisions are available exclusively at the Department of the Interior law library in Washington, D.C.
- From 1930 to 1970, certain important decisions, along with Interior Board of Indian Appeals (IBIA), Interior Court of Contract Appeals (IBCA) and Solicitor's Memorandum Opinions ("M" Opinions) were published in Decisions of the Department

of the Interior (I.D). These are also available only in at the Department of Interior law library.

- In 1970, the IBLA was created to consolidate various DOI appeal functions. All unpublished decisions began to be filed into loose leaf binders at the DOI law library. Important decisions were reprinted into Decisions of the Department of the Interior.
- From December 2000 to the present, the Office of Hearings and Appeals has provided a web site with full texts of IBLA decisions.

To find an IBLA opinion: Start at the DOI web site <http://hearingsandappeals.doi.gov> or www.doi.gov/oha and click on EFOIA. [As of 10 29 04, this site was unavailable so a detailed description for obtaining documents cannot be provided.]

To find an IBLA decision when the DOI site is down: Another site, www.ibiadections.com, created by a retired judge from the Interior Board of Indian Appeals, provides full texts of IBLA decisions from December 1992 to the present in PDF format. Cases "affecting Indian and Alaska Native interests" are searchable alphabetically or chronologically starting from <http://www.ibiadections.com/Ibla/iblamainpage.html>.

Hard copies of IBLA decisions are available free from IBLA for up to 50 pages at one time. Fore more than 50 pages, IBLA charges 10 cents per page. To order, contact: Interior Board of Land Appeals, 801 North Quincy Street, MS 300-QC, Arlington, VA 22203. Phone (703) 235-3799.

VIIb. PUBLIC LAND ORDERS

Public Land Orders are issued by the Secretary of the Interior and are used to make, modify, extend or revoke land withdrawals. Authority for these orders comes from the congressional statutory mandate of the Federal Land Policy and Management Act of 1976 (FLPMA). According to the BLM website (www.blm.gov/nhp/what/plo), "A withdrawal removes an area of Federal land from settlement, sale, location, or entry under some or all of the general land laws, for the purpose of limiting activities under those laws to maintain other public values in the area or reserving the area for a particular public purpose or program. Withdrawals are also used to transfer jurisdiction over an area of Federal land from one department, bureau, or agency to another."

To retrieve public land orders online: This process requires using two web sites in conjunction, and only orders published since 1994 are available online. Start first at the BLM website TABLE OF PUBLIC LAND ORDERS at www.blm.gov/nhp/what/plo. Here, all land orders since 1942 are organized by year and by number. It is not essential to know the exact date of the order in order to find it using this system – the approximate year is useful, but groups of orders can be searched. Click on the appropriate range of order numbers based on the approximate date; use CTRL+F to search for a keyword in the order name. Once you have found the number of the order, use the number on the right side of the screen to find the order in the Federal Register.

Example: Suppose you live in Oregon and you were looking for the Public Land Order removing National Forest Lands to protect the North Fork of the Smith River. If you click on the

link 7545-7567 OCTOBER 24, 2002 – APRIL 25, 2003, USE CTRL+F and type in “Smith” or “North Fork” and you will find that on March 5, 2003, public land order 7558 was passed protecting land along the North Fork of the Smith River. On the right hand part of the page, you will find a Federal Register reference for this land order: 68 FR 13726.

Next, go to the Federal Register Search page at <http://www.gpoaccess.gov/fr/index.html>. Notice again that the Federal Register can only be searched online back to 1994, limiting the practicality of this function. Since you know the page number from the BLM website, click on SIMPLE (1994 FORWARD) underneath the words 1994 (VOLUME 59) THROUGH 2004 (VOLUME 69). At the simple search page (<http://www.gpoaccess.gov/fr/search.html>), click on the appropriate year. Notice that the first part of the Federal Register reference for this public land order is the same as the volume we are looking for: 68. In the SEARCH text box, type in only the relevant page: 13726. Since you have already picked the correct year/volume number, the search engine will find the right page. The correct document appears as the third result. The first result returned is the table of contents for the entire year’s Federal Register. The second result is another document appearing on the same page as the public land order. The third result reveals the public land order and a brief description of both the lands and the nature of the withdrawal. Here, the lands, subject to valid existing rights, were withdrawn from United States mining laws, but not from mineral leasing laws.

VIIc. INTERIOR BOARD OF INDIAN APPEALS

The official Department of the Interior web site providing Interior Board of Indian Appeals (IBIA) decisions is currently not available. Many decisions, however, are provided in PDF format at www.ibiadections.com. The site is maintained by Anita Vogt, “retired IBIA judge,” who writes, “This site contains decisions issued by the Interior Board of Indian Appeals (IBIA) from its inception in 1970 through July 30, 2004. This is an unofficial site and is not associated...with the Department of the Interior. The site...will remain on-line until the official website...returns.” This site also contains Indian Self-Determination Act (ISDA) appeals decided by the Department of the Interior together with the Department of Health and Human Services. According to Vogt, “Although reasonably complete, this index should not be considered absolutely comprehensive.”

Decisions on this site can be searched alphabetically, alphabetically by volume, and chronologically. The site has also been “indexed” by the Google (www.google.com) and Yahoo (www.yahoo.com) search pages. The main page of www.ibiadections.com provides detailed instructions on how to use this to find a particular case.

Example: To find the case Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation v. Sacramento Area Director using Google, first go to the Google home page and click on ADVANCED SEARCH on the left-hand side of the screen. There you could enter any of the words in either the case name or the text of the case into the “find results” text boxes. Below, find the “Domain” text box and make sure the “only” box is highlighted. Then, by entering www.ibiadections.com into the text box, only decisions with the particular words entered into the search engine will be returned. For example, typing “Utu” into the search box returns Utu Utu Gwaitu Paiute as the first result.

VIIId. FOREST SERVICE ADMINISTRATIVE DECISIONS

Certain decisions by the Forest Service can be appealed to a higher agency authority for review. Special use permits, mining locations, mineral rights, grazing and livestock permits and other environmental decisions may be appealed. Several statutes are used to guide the Forest Service when deciding an appeal, including the Land Resource Management Plan, Regional Guide, and compliance with the National Environmental Policy Act (NEPA). Reviews of a decisions made by a particular national forest are made by personnel at a Forest Service Regional Office. These reviews are not the decisions of a court, but only provide administrative review. Review is guided by both the Resources Planning Act Program, the Regional Guide and the Land and Resource Management Plan. An appeal of decision by the Regional Office is forwarded to the Forest Service Chief's Office in Washington, D.C., where the appeal and records are reviewed. Typically, all administrative processes must be exhausted before a person can bring a court action (litigation) associated with an environmental planning decision.

Regional Appeal Decisions by the Forest Service are found at http://www.fs.fed.us/emc/applit/appeal_decisions.htm. Decisions are organized by region, so the first step to finding a particular decision is to know what region the matter concerns. Regional divisions are illustrated at this site: <http://www.fs.fed.us/contactus/regions.shtml>.

Each region organizes its appeals using a different system:

Northern Region (1):

The Northern Region organizes Final Appeal Decisions by National Forest (e.g. Beaverhead-Deerlodge National Forest). The decisions in each National Forest are organized alphabetically. Decisions for this Region appear to date from 1997.

Rocky Mountain Region (2): <http://www.fs.fed.us/r2/projects/nepa/decisions.shtml>

Appeals are organized by year starting with 1997. Within each year, decisions are organized by National Forest.

Southwestern Region (3): <http://www.fs.fed.us/r3/planning/appeals/> Currently unavailable.

Intermountain Region (4): <http://www.fs.fed.us/r4/reading/>

Appeals are organized by forest; then alphabetically by name of the appeal.

Pacific Southwest Region (5): <http://www.fs.fed.us/r5/ecoplan/appeals/2004.htm>

Appeals are organized by fiscal year (1997-2004). Once in a particular year, appeals are organized by forest.

Pacific Northwest Region (6): http://www.fs.fed.us/emc/applit/appeal_decisions.htm

There is one page that organizes appeal decisions by National Forest and by year. Only the Winema National Forest dates back to 1997. The rest have decisions starting from 1998.

Southern Region (8): <http://www.southernregion.fs.fed.us/appeals/default.shtm> Currently unavailable

Eastern Region (9): <http://www.fs.fed.us/r9/appeals/index.php>

The national forests are listed along the left-hand side of the screen. Once in a particular forest, then search by year.

Northern Region (10, Alaska): <http://www.fs.fed.us/r10/ro/projects-plans/litigation/index.shtml>

Decisions are organized by type of claim: NEPA Appeals, Special Use Permit Appeal Decisions, Tongass Land Management Plan Appeal Decisions, Recent Tongass Planning and Appeal Decisions (currently unavailable). Within each category, decisions are organized alphabetically. Clicking on APPEALING PARTY produces a PDF document of the decision.

VIII. OTHER RESOURCES

Crossing the Next Meridian; Land, Water and the Future of the West

Charles F. Wilkinson, 1992, Island Press

An exploration of the laws, policies and ideas that found their origin in the nineteenth-century westward expansion but still dominate our nation's management of its natural resources.

Modern Public Land Law in a Nutshell

Robert L. Glicksman and George Cameron Coggins, 2001, West Group

Part of the "law in a nutshell" series, this book focuses on the major authorities in a condensed fashion and keys to two case books: *Federal Public Land and Resources Law* and to *Public Natural Resources Law*.

From Conquest to Conservation; Our Public Lands Legacy

Michael P. Dombeck, Christopher A. Wood, and Jack E. Williams, 2003, Island Press

Through writings and essays, this book gives the history of the public lands, an overview of ecological and restoration issues, and discussion of current topics such as the roadless rule and challenges for the new century.

Federal Web Locator

<http://www.infoctr.edu/fwl/>

The Federal Web Locator is intended to be one-stop shopping for federal government information on the web. The site includes links to all three government branches and divisions within those branches.

FirstGov

<http://firstgov.gov/>

On FirstGov, you can search more than 186 million web pages from federal and state governments, the District of Columbia and U.S. territories. Most of these pages are not available on commercial websites. FirstGov has the most comprehensive search of government information anywhere on the Internet.

U.S. Government Accountability Office

<http://www.gpoaccess.gov/gaoreports/>

Contains audits, surveys, investigations and evaluations of Federal programs conducted by the U.S. Government Accountability Office. The site can be searched by topic (for example, "healthy forests").

National Archives Web Site

http://www.archives.gov/federal_register/index.html

The National Archives and Records Administration maintains an index to the Federal Register on its website, along with links to public laws, the Code of Federal Regulations and Presidential orders.

National Library for the Environment

<http://www.ncseonline.org/NLE/>

One of this site's useful features is a gathering of over 1200 reports by the Congressional Research Service. This organization provides non-partisan reports to Congress on extremely varied topics and are a useful point of departure for research into environmental issues.